30-1-1. Incestuous marriages void.

(1) The following marriages are incestuous and void from the beginning, whether the relationship is legitimate or illegitimate:

(a) marriages between parents and children;

(b) marriages between ancestors and descendants of every degree;

(c) marriages between brothers and sisters of the half as well as the whole blood;

(d) marriages between uncles and nieces or aunts and nephews;

(e) marriages between first cousins, except as provided in Subsection (2); or

(f) marriages between any persons related to each other within and not including the fifth degree of consanguinity computed according to the rules of the civil law, except as provided in Subsection (2).

(2) First cousins may marry under the following circumstances:

(a) both parties are 65 years of age or older; or

(b) if both parties are 55 years of age or older, upon a finding by the district court, located in the district in which either party resides, that either party is unable to reproduce.

Amended by Chapter 83, 1996 General Session

30-1-2. Marriages prohibited and void.

The following marriages are prohibited and declared void:

(1) when there is a husband or wife living, from whom the person marrying has not been divorced;

(2) when the male or female is under 18 years of age unless consent is obtained as provided in Section 30-1-9;

(3) when the male or female is under 14 years of age or, beginning May 3, 1999, when the male or female is under 16 years of age at the time the parties attempt to enter into the marriage; however, exceptions may be made for a person 15 years of age, under conditions set in accordance with Section 30-1-9;

(4) between a divorced person and any person other than the one from whom the divorce was secured until the divorce decree becomes absolute, and, if an appeal is taken, until after the affirmance of the decree; and

(5) between persons of the same sex.

Amended by Chapter 15, 1999 General Session

30-1-2.1. Validation of marriage to a person subject to chronic epileptic fits who had not been sterilized.

All marriages, otherwise valid and legal, contracted prior to the effective date of this act, to which either party was subject to chronic epileptic fits and who had not been sterilized, as provided by law, are hereby validated and legalized in all respects as though such marriages had been duly and legally contracted in the first instance.

Enacted by Chapter 41, 1963 General Session

30-1-2.2. Validation of interracial marriages.

All interracial marriages, otherwise valid and legal, contracted prior to July 1, 1965, to which one of the parties of the marriage was subject to disability to marry on account of Subsection 30-1-2(5) or (6), as those subsections existed prior to May 14, 1963, are hereby valid and made lawful in all respects as though such marriages had been duly and legally contracted in the first instance.

Amended by Chapter 20, 1995 General Session

30-1-2.3. Validation of marriage to a person with acquired immune deficiency syndrome or other sexually transmitted disease.

Each marriage contracted prior to October 21, 1993, is valid and legal but for the prohibition described in Laws of Utah 1991, Chapter 117, Section 1, Subsection 30-1-2(1) regarding persons afflicted with acquired immune deficiency syndrome, syphilis, or gonorrhea, is hereby valid and made lawful in all respects as though that marriage had been legally contracted in the first instance.

Amended by Chapter 20, 1995 General Session

30-1-3. Marriage in belief of death or divorce of former spouse -- Issue legitimate.

When a marriage is contracted in good faith and in the belief of the parties that a former husband or wife, then living and not legally divorced, is dead or legally divorced, the issue of such marriage born or begotten before notice of the mistake shall be the legitimate issue of both parties.

No Change Since 1953

30-1-4. Validity of foreign marriages -- Exceptions.

A marriage solemnized in any other country, state, or territory, if valid where solemnized, is valid here, unless it is a marriage:

(1) that would be prohibited and declared void in this state, under Subsection 30-1-2(1), (3), or (5); or

(2) between parties who are related to each other within and including three degrees of consanguinity, except as provided in Subsection 30-1-1(2).

Amended by Chapter 83, 1996 General Session

30-1-4.1. Marriage recognition policy.

(1) (a) It is the policy of this state to recognize as marriage only the legal union of a man and a woman as provided in this chapter.

(b) Except for the relationship of marriage between a man and a woman recognized pursuant to this chapter, this state will not recognize, enforce, or give legal effect to any law creating any legal status, rights, benefits, or duties that are substantially equivalent to those provided under Utah law to a man and a woman because they are married.

(2) Nothing in Subsection (1) impairs any contract or other rights, benefits, or duties that are enforceable independently of this section.

Enacted by Chapter 261, 2004 General Session

30-1-4.5. Validity of marriage not solemnized.

(1) A marriage which is not solemnized according to this chapter shall be legal and valid if a court or administrative order establishes that it arises out of a contract between a man and a woman who:

(a) are of legal age and capable of giving consent;

(b) are legally capable of entering a solemnized marriage under the provisions of this chapter;

(c) have cohabited;

(d) mutually assume marital rights, duties, and obligations; and

(e) who hold themselves out as and have acquired a uniform and general reputation as husband and wife.

(2) The determination or establishment of a marriage under this section shall occur during the relationship described in Subsection (1), or within one year following the termination of that relationship. Evidence of a marriage recognizable under this section may be manifested in any form, and may be proved under the same general rules of evidence as facts in other cases.

Amended by Chapter 297, 2011 General Session

30-1-5. Marriage solemnization -- Before unauthorized person -- Validity.

(1) A marriage solemnized before a person professing to have authority to perform marriages may not be invalidated for lack of authority, if consummated in the belief of the parties or either of them that the person had authority and that they have been lawfully married.

(2) This section may not be construed to validate a marriage that is prohibited or void under Section 30-1-2.

Amended by Chapter 297, 2011 General Session

30-1-6. Who may solemnize marriages -- Certificate.

(1) Marriages may be solemnized by the following persons only:

(a) ministers, rabbis, or priests of any religious denomination who are:

(i) in regular communion with any religious society; and

(ii) 18 years of age or older;

(b) Native American spiritual advisors;

(c) the governor;

(d) the lieutenant governor;

(e) mayors of municipalities or county executives;

(f) a justice, judge, or commissioner of a court of record;

(g) a judge of a court not of record of the state;

(h) judges or magistrates of the United States;

(i) the county clerk of any county in the state, if the clerk chooses to solemnize marriages;

(j) the president of the Senate;

(k) the speaker of the House of Representatives; or

(l) a judge or magistrate who holds office in Utah when retired, under rules set by the Supreme Court.

(2) A person authorized under Subsection (1) who solemnizes a marriage shall give to the couple married a certificate of marriage that shows the:

(a) name of the county from which the license is issued; and

(b) date of the license's issuance.

(3) As used in this section:

(a) "Judge or magistrate of the United States" means:

(i) a justice of the United States Supreme Court;

(ii) a judge of a court of appeals;

(iii) a judge of a district court;

(iv) a judge of any court created by an act of Congress the judges of which are entitled to hold office during good behavior;

(v) a judge of a bankruptcy court;

(vi) a judge of a tax court; or

(vii) a United States magistrate.

(b) (i) "Native American spiritual advisor" means a person who:

(A) (I) leads, instructs, or facilitates a Native American religious ceremony or service; or

(II) provides religious counseling; and

(B) is recognized as a spiritual advisor by a federally recognized Native American tribe.

(ii) "Native American spiritual advisor" includes a sweat lodge leader, medicine person, traditional religious practitioner, or holy man or woman.

(4) Notwithstanding any other provision in law, no person authorized under Subsection (1) to solemnize a marriage may delegate or deputize another person to perform the function of solemnizing a marriage, except that only employees of the office responsible for the issuance of marriage licenses may be deputized.

Amended by Chapter 132, 2010 General Session

30-1-7. Marriage licenses -- Use within state -- Expiration.

(1) No marriage may be solemnized in this state without a license issued by the county clerk of any county of this state.

(2) A license issued within this state by a county clerk may only be used within this state.

(3) A license that is not used within 30 days of the date of issuance is void.

Amended by Chapter 289, 2004 General Session

30-1-8. Application for license -- Contents.

(1) A marriage license may be issued by the county clerk to a man and a woman

only after an application has been filed in his office, requiring the following information:

(a) the full names of the man and the woman, including the maiden name of the woman;

(b) the Social Security numbers of the parties, unless the party has not been assigned a number;

(c) the current address of each party;

(d) the date and place of birth (town or city, county, state or country, if possible);

(e) the names of their respective parents, including the maiden name of the mother;

(f) the birthplaces of fathers and mothers (town or city, county, state or country, if possible); and

(g) the distinctive race or nationality of each of the parents.

(2) If the woman is a widow, her maiden name shall be shown in brackets.

(3) If one or both of the parties is under 16 years of age, the clerk shall provide them with a standard petition on a form approved by the Judicial Council to be presented to the juvenile court to obtain the authorization required by Section 30-1-9.

(4) (a) The Social Security numbers obtained under the authority of this section may not be recorded on the marriage license, and are not open to inspection as a part of the vital statistics files.

(b) The Department of Health, Bureau of Vital Records and Health Statistics shall, upon request, supply those Social Security numbers to the Office of Recovery Services within the Department of Human Services.

(c) The Office of Recovery Services may not use any Social Security numbers obtained under the authority of this section for any reason other than the administration of child support services.

Amended by Chapter 261, 2004 General Session

30-1-9. Marriage by minors -- Consent of parent or guardian -- Juvenile court authorization.

(1) For purposes of this section, "minor" means a male or female under 18 years of age.

(2) (a) If at the time of applying for a license the applicant is a minor, and not before married, a license may not be issued without the signed consent of the minor's father, mother, or guardian given in person to the clerk; however:

(i) if the parents of the minor are divorced, consent shall be given by the parent having legal custody of the minor as evidenced by an oath of affirmation to the clerk;

(ii) if the parents of the minor are divorced and have been awarded joint custody of the minor, consent shall be given by the parent having physical custody of the minor the majority of the time as evidenced by an oath of affirmation to the clerk; or

(iii) if the minor is not in the custody of a parent, the legal guardian shall provide the consent and provide proof of guardianship by court order as well as an oath of affirmation.

(b) If the male or female is 15 years of age, the minor and the parent or guardian of the minor shall obtain a written authorization to marry from:

(i) a judge of the court exercising juvenile jurisdiction in the county where either

party to the marriage resides; or

(ii) a court commissioner as permitted by rule of the Judicial Council.

(3) (a) Before issuing written authorization for a minor to marry, the judge or court commissioner shall determine:

(i) that the minor is entering into the marriage voluntarily; and

(ii) the marriage is in the best interests of the minor under the circumstances.

(b) The judge or court commissioner shall require that both parties to the marriage complete premarital counseling. This requirement may be waived if premarital counseling is not reasonably available.

(c) The judge or court commissioner may require:

(i) that the person continue to attend school, unless excused under Section 53A-11-102; and

(ii) any other conditions that the court deems reasonable under the circumstances.

(4) The determination required in Subsection (3) shall be made on the record. Any inquiry conducted by the judge or commissioner may be conducted in chambers.

Amended by Chapter 1, 2000 General Session

30-1-9.1. Parental consent to prohibited marriage of minor -- Penalty.

A parent or guardian who knowingly consents or allows a minor child to enter into a marriage prohibited by law is guilty of a third degree felony.

Enacted by Chapter 129, 2001 General Session

30-1-10. Application by persons unknown to clerk -- Affidavit -- Penalty.

(1) When the parties are personally unknown to the clerk a license may not be issued until an affidavit is made before the clerk, which shall be filed and preserved by the clerk, by a party applying for the license, showing that there is no lawful reason in the way of the marriage.

(2) A party who makes an affidavit described in Subsection (1) or a subscribing witness to the affidavit who falsely swears in the affidavit is guilty of perjury.

Amended by Chapter 297, 2011 General Session

30-1-11. Return of license after ceremony -- Failure -- Penalty.

The person solemnizing the marriage shall within 30 days thereafter return the license to the clerk of the county whence it issued, with a certificate of the marriage over his signature, giving the date and place of celebration and the names of two or more witnesses present at the marriage. For failure to make such return he shall be guilty of a misdemeanor.

No Change Since 1953

30-1-12. Clerk to file license and certificate.

(1) The license, together with the certificate of the person officiating at the

marriage, shall be filed and preserved by the clerk, and shall be recorded by him in a book kept for that purpose, or by electronic means. The record shall be properly indexed in the names of the parties so married.

(2) A transcript shall be promptly certified and transmitted by the clerk to the state registrar of vital statistics.

Amended by Chapter 154, 1988 General Session

30-1-13. Solemnization without license -- Penalty.

If any person knowingly solemnizes a marriage without a license, and if either party is under 16 years of age, without a written authorization from a juvenile court, he is guilty of a third degree felony.

Amended by Chapter 129, 2001 General Session

30-1-14. Acting without authority -- Impersonation -- Forgery -- Penalty.

A person is guilty of a third degree felony if he:

(1) knowingly solemnizes a marriage in violation of either Section 30-1-6, 30-1-7, or 30-1-9.1;

(2) impersonates a parent or guardian of a minor to obtain a license for the minor to marry; or

(3) forges the name of a parent or guardian of a minor on any writing purporting to give consent to a marriage of a minor.

Amended by Chapter 129, 2001 General Session

30-1-15. Solemnization of prohibited marriage -- Penalty.

(1) Any person who knowingly, with or without a license, solemnizes a marriage of a minor prohibited by law is guilty of a third degree felony.

(2) Any person who knowingly, with or without a license, solemnizes a marriage between two adults prohibited by law is guilty of a class A misdemeanor.

Amended by Chapter 129, 2001 General Session

30-1-16. Misconduct of county clerk -- Penalty.

Every clerk or deputy clerk who knowingly issues a license for any prohibited marriage is guilty of a class A misdemeanor.

Amended by Chapter 108, 2013 General Session

30-1-17. Action to determine validity of marriage -- Judgment of validity or annulment.

When there is doubt as to the validity of a marriage, either party may, in a court of equity in a county where either party is domiciled, demand its avoidance or affirmance, but when one of the parties was under the age of consent at the time of the marriage, the other party, being of proper age, shall have no such proceeding for that

cause against the party under age. The judgment in the action shall either declare the marriage valid or annulled and shall be conclusive upon all persons concerned with the marriage.

Amended by Chapter 65, 1971 General Session

30-1-17.1. Annulment -- Grounds for.

A marriage may be annulled for any of the following causes existing at the time of the marriage:

(1) When the marriage is prohibited or void under Title 30, Chapter 1.

(2) Upon grounds existing at common law.

Enacted by Chapter 65, 1971 General Session

30-1-17.2. Action to determine validity of marriage -- Orders relating to parties, property, and children -- Presumption of paternity in marriage.

(1) If the parties have accumulated any property or acquired any obligations subsequent to the marriage, if there is a genuine need arising from an economic change of circumstances due to the marriage, or if there are children born or expected, the court may make temporary and final orders, and subsequently modify the orders, relating to the parties, their property and obligations, the children and their custody and parent-time, and the support and maintenance of the parties and children, as may be equitable.

(2) A man is presumed to be the father of a child if:

(a) he and the mother of the child are married to each other and the child is born during the marriage;

(b) he and the mother of the child were married to each other and the child is born within 300 days after the marriage is terminated by death, annulment, declaration of invalidity, or divorce, or after a decree of separation;

(c) before the birth of the child, he and the mother of the child married each other in apparent compliance with law, even if the attempted marriage is, or could be, declared invalid and the child is born during the invalid marriage or within 300 days after its termination by death, annulment, declaration of invalidity, or divorce, or after a decree of separation; or

(d) after the birth of the child, he and the mother of the child have married each other in apparent compliance with law, whether or not the marriage is, or could be declared, invalid, he voluntarily asserted his paternity of the child, and there is no other presumptive father of the child, and:

(i) the assertion is in a record filed with the state registrar;

(ii) he agreed to be and is named as the child's father on the child's birth certificate; or

(iii) he promised in a record to support the child as his own.

(3) If the child was born at the time of entry of a divorce decree, other children are named as children of the marriage, but that child is specifically not named, the husband is not presumed to be the father of the child not named in the order.

(4) A presumption of paternity established under this section may only be

rebutted in accordance with Section 78B-15-607.

(5) A final order or decree issued by a tribunal in which paternity is adjudicated may not be set aside unless the court finds that one of the parties perpetrated a fraud in the establishment of the paternity and another party did not know or could not reasonably have known of the fraud at the time of the entry of the order. The party who committed the fraud may not bring the action.

Amended by Chapter 3, 2008 General Session

30-1-17.3. Age as basis of action to determine validity of marriage -- Refusal to grant annulment.

If an action to determine the validity of a marriage is commenced upon the ground that one or both of the parties were prohibited from marriage because of their age, in addition to all of the foregoing provisions, the following shall apply: The provisions of this code regarding marriage by a person or persons under the age of consent to the contrary notwithstanding, the court may, in its discretion, refuse to grant an annulment if it finds that it is in the best interest of the parties or their children, to refuse the annulment. The refusal shall make the marriage valid and subsisting for all purposes.

Enacted by Chapter 65, 1971 General Session

30-1-17.4. Action for annulment or divorce as alternative relief.

Nothing herein shall be construed to prevent the filing of an action requesting an annulment or a divorce as alternative relief.

Enacted by Chapter 65, 1971 General Session

30-1-30. Premarital counseling -- State policy -- Applicability.

It is the policy of the state of Utah to enhance the possibility of couples to achieve more stable, satisfying and enduring marital and family relationships by providing opportunities for and encouraging the use of premarital counseling prior to securing a marriage license by persons under 19 years of age and by persons who have been previously divorced.

Enacted by Chapter 64, 1971 General Session

30-1-31. Premarital counseling board in county -- Appointment, terms, compensation, offices -- Common counseling board with adjacent county.

The boards of commissioners of the respective counties in this state are authorized to provide for premarital counseling and to require the use of premarital counseling as a condition precedent to the issuance of a marriage license under the provisions of this act. They may appoint a premarital counseling board consisting of seven members, four of whom shall be lay persons and three of whom shall be chosen from the professions of psychiatry, psychology, social work, marriage counseling, the clergy, law or medicine. They may designate the terms of office and the procedures to

be followed by the premarital counseling board and provide for payment of compensation and expenses for members. They may pay the salaries and expenses of a counseling staff under the supervision of the premarital counseling board and provide office space, furnishings, equipment and supplies for their use.

A county may join with an adjacent county or counties in forming a common premarital counseling board and in establishing a common master plan for premarital counseling.

Enacted by Chapter 64, 1971 General Session

30-1-32. Master plan for counseling.

(1) It shall be the function and duty of the premarital counseling board, after holding public hearings, to make, adopt, and certify to the county legislative body a master plan for premarital counseling of marriage license applicants within the purposes and objectives of this act.

(2) The master plan described in Subsection (1) shall include:

(a) counseling procedures that:

(i) will make applicants aware of problem areas in their proposed marriage;

(ii) suggest ways of meeting problems; and

(iii) will induce reconsideration or postponement when:

(A) the applicants are not sufficiently matured or are not financially capable of meeting the responsibilities of marriage; or

(B) are marrying for reasons not conducive to a sound lasting marriage; and

(b) standards for evaluating premarital counseling received by the applicants, prior to their application for a marriage license, which would justify issuance of certificate without further counseling being given or required.

(3) The board may, from time to time, amend or extend the plan described in Subsection (1).

(4) The premarital counseling board may, subject to Subsection (5):

(a) appoint a staff and employees as may be necessary for its work; and

(b) contract with social service agencies or other consultants within the county or counties for services it requires.

(5) Expenditures for the appointments and contracts described in Subsection (4) may not exceed the sums appropriated by the county legislative body plus sums placed at its disposal through gift or otherwise.

Amended by Chapter 297, 2011 General Session

30-1-33. Conformity to master plan for counseling as prerequisite to marriage license -- Exceptions.

Whenever the board of commissioners of a county has adopted a master plan for premarital counseling no resident of the county may obtain a marriage license without conforming to the plan, except that:

(1) Any person who applies for a marriage license shall have the right to secure the license and to marry notwithstanding their failure to conform to the required premarital counseling or their failure to obtain a certificate of authorization from the

premarital counseling board if they wait six months from the date of application for issuance of the license.

(2) This chapter does not apply to any application for a marriage license where both parties are at least 19 years of age and neither has been previously divorced.

(3) This chapter does not apply to any application for a marriage license unless both applicants have physically resided in Utah for 60 days immediately preceding their application.

(4) Premarital counseling required by this act shall be considered fulfilled if the applicants present a certificate verified by a clergyman that the applicants have completed a course of premarital counseling approved by a church and given by or under the supervision of the clergyman.

Amended by Chapter 297, 2011 General Session

30-1-34. Certificate of completion of counseling.

The county clerk of any county which has adopted this act shall issue a marriage license to those applicants who come within the premarital counseling requirements of this act when the applicants present a certificate from the premarital counseling board that the counseling has been completed or has been found to be adequate if the license application otherwise conforms to the requirements for issuance of a marriage license. For those applicants who would otherwise need approval of the district court in order to marry, the certificate shall take the place of court consent if the parents, guardian or custodial parent of the applicant have given their consent to the marriage.

Enacted by Chapter 64, 1971 General Session

30-1-35. Persons performing counseling services designated by board -- Exemption from license requirements.

For the purposes of this chapter the premarital counseling board of each county or combination of counties may determine those persons who are to perform any services under this chapter and any person so acting is not subject to prosecution or other sanctions for the person's failure to hold any license for these services as may be required by the laws of the state.

Amended by Chapter 297, 2011 General Session

30-1-36. Activities included in premarital counseling.

Premarital counseling as used in this act shall include but not be limited to lectures, group counseling, individual counseling and testing.

Enacted by Chapter 64, 1971 General Session

30-1-37. Confidentiality of information obtained under counseling provisions.

Except for the information required or to be required on the marriage license application form, any information given by a marriage license applicant in compliance

with this chapter shall be confidential information and may not be released by any person, board, commission, or other entity. However, the premarital counseling board or board of commissioners may use the information, without identification of individuals, to compile and release statistical data.

Amended by Chapter 297, 2011 General Session

30-1-38. Fee for counseling.

Any county adopting a master plan under this act is authorized to charge, in addition to its ordinary marriage license application fees, not more than $10 for premarital counseling, to be paid by the applicants at the time they make application.

Enacted by Chapter 64, 1971 General Session

30-1-39. Violation of counseling provisions -- Misdemeanor.

Any person coming within the provisions of this act who falsely represents that he has complied with the requirements of a master plan for premarital counseling or who, for the purpose of evading the provisions of this act, applies for a marriage license in a county within the state of Utah which does not require premarital counseling, is guilty of a misdemeanor.

Enacted by Chapter 64, 1971 General Session

30-2-2. Wife's right to contract, sue and be sued.

Contracts may be made by a wife, and liabilities incurred and enforced by or against her, to the same extent and in the same manner as if she were unmarried.

No Change Since 1953

30-2-3. Conveyances between husband and wife.

A conveyance, transfer or lien executed by either husband or wife to or in favor of the other shall be valid to the same extent as between other persons.

No Change Since 1953

30-2-4. Wife's right to wages -- Actions for personal injury.

A wife may receive the wages for her personal labor, maintain an action therefor in her own name and hold the same in her own right, and may prosecute and defend all actions for the preservation and protection of her rights and property as if unmarried. There shall be no right of recovery by the husband on account of personal injury or wrong to his wife, or for expenses connected therewith, but the wife may recover against a third person for such injury or wrong as if unmarried, and such recovery shall include expenses of medical treatment and other expenses paid or assumed by the husband.

No Change Since 1953

30-2-5. Separate debts.

(1) Neither spouse is personally liable for the separate debts, obligations, or liabilities of the other:

(a) contracted or incurred before marriage;

(b) contracted or incurred during marriage, except family expenses as provided in Section 30-2-9;

(c) contracted or incurred after divorce or an order for separate maintenance under this title, except the spouse is personally liable for that portion of the expenses incurred on behalf of a minor child for reasonable and necessary medical and dental expenses, and other similar necessities as provided in a court order under Section 30-3-5, 30-4-3, or 78B-12-212, or an administrative order under Section 62A-11-326; or

(d) ordered by the court to be paid by the other spouse under Section 30-3-5 or 30-4-3 and not in conflict with Section 15-4-6.5 or 15-4-6.7.

(2) The wages, earnings, property, rents, or other income of one spouse may not be reached by a creditor of the other spouse to satisfy a debt, obligation, or liability of the other spouse, as described under Subsection (1).

Amended by Chapter 3, 2008 General Session

30-2-6. Actions based on property rights.

Should the husband or wife obtain possession or control of property belonging to the other before or after marriage, the owner of the property may maintain an action therefor, or for any right growing out of the same, in the same manner and to the same extent as if they were unmarried.

No Change Since 1953

30-2-7. Husband's liability for wife's torts.

For civil injuries committed by a married woman damages may be recovered from her alone, and her husband may not be held liable for those civil injuries, except in cases where he would be jointly liable with her if the marriage did not exist.

Amended by Chapter 297, 2011 General Session

30-2-8. Agency between husband and wife.

A husband or wife may constitute the other his or her attorney in fact to control and dispose of his or her property for their mutual benefit or otherwise, and may revoke the appointment the same as other persons.

No Change Since 1953

30-2-9. Family expenses -- Joint and several liability.

(1) The expenses of the family and the education of the children are chargeable upon the property of both husband and wife or of either of them, and in relation thereto they may be sued jointly or separately.

(2) In an action by a creditor against either husband or wife for the payment of a

family expense, the creditor or debtor as the prevailing party shall be entitled to recover reasonable collection costs, interest, and attorney fees as provided in a contract between the creditor and debtor.

Amended by Chapter 109, 2011 General Session

30-2-10. Homestead rights -- Custody of children.

Neither the husband nor wife can remove the other or their children from the homestead without the consent of the other, unless the owner of the property shall in good faith provide another homestead suitable to the condition in life of the family; and if a husband or wife abandons his or her spouse, that spouse is entitled to the custody of the minor children, unless a court of competent jurisdiction shall otherwise direct.

Amended by Chapter 122, 1977 General Session

30-2-11. Action for consortium due to personal injury.

(1) For purposes of this section:

(a) "injury" or "injured" means a significant permanent injury to a person that substantially changes that person's lifestyle and includes the following:

(i) a partial or complete paralysis of one or more of the extremities;

(ii) significant disfigurement; or

(iii) incapability of the person of performing the types of jobs the person performed before the injury; and

(b) "spouse" means the legal relationship:

(i) established between a man and a woman as recognized by the laws of this state; and

(ii) existing at the time of the person's injury.

(2) The spouse of a person injured by a third party on or after May 4, 1997, may maintain an action against the third party to recover for loss of consortium.

(3) A claim for loss of consortium begins on the date of injury to the spouse. The statute of limitations applicable to the injured person shall also apply to the spouse's claim of loss of consortium.

(4) A claim for the spouse's loss of consortium shall be:

(a) made at the time the claim of the injured person is made and joinder of actions shall be compulsory; and

(b) subject to the same defenses, limitations, immunities, and provisions applicable to the claims of the injured person.

(5) The spouse's action for loss of consortium:

(a) shall be derivative from the cause of action existing in behalf of the injured person; and

(b) may not exist in cases where the injured person would not have a cause of action.

(6) Fault of the spouse of the injured person, as well as fault of the injured person, shall be compared with the fault of all other parties, pursuant to Sections 78B-5-817 through 78B-5-823, for purposes of reducing or barring any recovery by the spouse for loss of consortium.

(7) Damages awarded for loss of consortium, when combined with any award to the injured person for general damages, may not exceed any applicable statutory limit on noneconomic damages, including Section 78B-3-410.

(8) Damages awarded for loss of consortium which a governmental entity is required to pay, when combined with any award to the injured person which a governmental entity is required to pay, may not exceed the liability limit for one person in any one occurrence under Title 63G, Chapter 7, Governmental Immunity Act of Utah.

Amended by Chapter 3, 2008 General Session
Amended by Chapter 382, 2008 General Session

30-3-1. Procedure -- Residence -- Grounds.

(1) Proceedings in divorce are commenced and conducted as provided by law for proceedings in civil causes, except as provided in this chapter.

(2) The court may decree a dissolution of the marriage contract between the petitioner and respondent on the grounds specified in Subsection (3) in all cases where the petitioner or respondent has been an actual and bona fide resident of this state and of the county where the action is brought, or if members of the armed forces of the United States who are not legal residents of this state, where the petitioner has been stationed in this state under military orders, for three months next prior to the commencement of the action.

(3) Grounds for divorce:

(a) impotency of the respondent at the time of marriage;

(b) adultery committed by the respondent subsequent to marriage;

(c) willful desertion of the petitioner by the respondent for more than one year;

(d) willful neglect of the respondent to provide for the petitioner the common necessaries of life;

(e) habitual drunkenness of the respondent;

(f) conviction of the respondent for a felony;

(g) cruel treatment of the petitioner by the respondent to the extent of causing bodily injury or great mental distress to the petitioner;

(h) irreconcilable differences of the marriage;

(i) incurable insanity; or

(j) when the husband and wife have lived separately under a decree of separate maintenance of any state for three consecutive years without cohabitation.

(4) A decree of divorce granted under Subsection (3)(j) does not affect the liability of either party under any provision for separate maintenance previously granted.

(5) (a) A divorce may not be granted on the grounds of insanity unless:

(i) the respondent has been adjudged insane by the appropriate authorities of this or another state prior to the commencement of the action; and

(ii) the court finds by the testimony of competent witnesses that the insanity of the respondent is incurable.

(b) The court shall appoint for the respondent a guardian ad litem who shall protect the interests of the respondent. A copy of the summons and complaint shall be served on the respondent in person or by publication, as provided by the laws of this state in other actions for divorce, or upon his guardian ad litem, and upon the county

attorney for the county where the action is prosecuted.

(c) The county attorney shall investigate the merits of the case and if the respondent resides out of this state, take depositions as necessary, attend the proceedings, and make a defense as is just to protect the rights of the respondent and the interests of the state.

(d) In all actions the court and judge have jurisdiction over the payment of alimony, the distribution of property, and the custody and maintenance of minor children, as the courts and judges possess in other actions for divorce.

(e) The petitioner or respondent may, if the respondent resides in this state, upon notice, have the respondent brought into the court at trial, or have an examination of the respondent by two or more competent physicians, to determine the mental condition of the respondent. For this purpose either party may have leave from the court to enter any asylum or institution where the respondent may be confined. The costs of court in this action shall be apportioned by the court.

Amended by Chapter 47, 1997 General Session

30-3-2. Right of husband to divorce.

The husband may in all cases obtain a divorce from his wife for the same causes and in the same manner as the wife may obtain a divorce from her husband.

No Change Since 1953

30-3-3. Award of costs, attorney and witness fees -- Temporary alimony.

(1) In any action filed under Title 30, Chapter 3, Divorce, Chapter 4, Separate Maintenance, or Title 78B, Chapter 7, Part 1, Cohabitant Abuse Act, and in any action to establish an order of custody, parent-time, child support, alimony, or division of property in a domestic case, the court may order a party to pay the costs, attorney fees, and witness fees, including expert witness fees, of the other party to enable the other party to prosecute or defend the action. The order may include provision for costs of the action.

(2) In any action to enforce an order of custody, parent-time, child support, alimony, or division of property in a domestic case, the court may award costs and attorney fees upon determining that the party substantially prevailed upon the claim or defense. The court, in its discretion, may award no fees or limited fees against a party if the court finds the party is impecunious or enters in the record the reason for not awarding fees.

(3) In any action listed in Subsection (1), the court may order a party to provide money, during the pendency of the action, for the separate support and maintenance of the other party and of any children in the custody of the other party.

(4) Orders entered under this section prior to entry of the final order or judgment may be amended during the course of the action or in the final order or judgment.

Amended by Chapter 3, 2008 General Session

30-3-4. Pleadings -- Decree -- Use of affidavit -- Private records.

(1) (a) The complaint shall be in writing and signed by the petitioner or petitioner's attorney.

(b) A decree of divorce may not be granted upon default or otherwise except upon legal evidence taken in the cause. If the decree is to be entered upon the default of the respondent, evidence to support the decree may be submitted upon the affidavit of the petitioner with the approval of the court.

(c) If the petitioner and the respondent have a child or children, a decree of divorce may not be granted until both parties have attended the mandatory course described in Section 30-3-11.3, and have presented a certificate of course completion to the court. The court may waive this requirement, on its own motion or on the motion of one of the parties, if it determines course attendance and completion are not necessary, appropriate, feasible, or in the best interest of the parties.

(d) All hearings and trials for divorce shall be held before the court or the court commissioner as provided by Section 78A-5-107 and rules of the Judicial Council. The court or the commissioner in all divorce cases shall enter the decree upon the evidence or, in the case of a decree after default of the respondent, upon the petitioner's affidavit.

(2) (a) A party to an action brought under this title or to an action under Title 78B, Chapter 12, Utah Child Support Act, Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act, Title 78B, Chapter 14, Uniform Interstate Family Support Act, Title 78B, Chapter 15, Utah Uniform Parentage Act, or to an action to modify or enforce a judgment in the action may file a motion to have the file other than the final judgment, order, or decree classified as private.

(b) If the court finds that there are substantial interests favoring restricting access that clearly outweigh the interests favoring access, the court may classify the file, or any part thereof other than the final order, judgment, or decree, as private. An order classifying part of the file as private does not apply to subsequent filings.

(c) The record is private until the judge determines it is possible to release the record without prejudice to the interests that justified the closure. Any interested person may petition the court to permit access to a record classified as private under this section. The petition shall be served on the parties to the closure order.

Amended by Chapter 3, 2008 General Session

30-3-4.5. Motion for temporary separation order.

(1) A petitioner may file an action for a temporary separation order without filing a petition for divorce by filing a petition for temporary separation and motion for temporary orders if:

(a) the petitioner is lawfully married to the respondent; and

(b) both parties are residents of the state for at least 90 days prior to the date of filing.

(2) The temporary orders are valid for one year from the date of the hearing, or until one of the following occurs:

(a) a petition for divorce is filed and consolidated with the petition for temporary separation; or

(b) the case is dismissed.

(3) If a petition for divorce is filed and consolidated with the petition for

temporary separation, orders entered in the temporary separation shall continue in the consolidated case.

(4) Both parties shall attend the divorce orientation course described in Section 30-3-11.4 within 60 days of the filing of the petition, for petitioner, and within 45 days of being served, for respondent.

(5) Service shall be made upon respondent, together with a 20-day summons, in accordance with the rules of civil procedure.

(6) The fee for filing the petition for temporary separation orders is $35. If either party files a petition for divorce within one year from the date of filing the petition for temporary separation, the separation filing fee shall be credited towards the filing fee for the divorce.

Amended by Chapter 34, 2010 General Session

30-3-5. Disposition of property -- Maintenance and health care of parties and children -- Division of debts -- Court to have continuing jurisdiction -- Custody and parent-time -- Determination of alimony -- Nonmeritorious petition for modification.

(1) When a decree of divorce is rendered, the court may include in it equitable orders relating to the children, property, debts or obligations, and parties. The court shall include the following in every decree of divorce:

(a) an order assigning responsibility for the payment of reasonable and necessary medical and dental expenses of the dependent children including responsibility for health insurance out-of-pocket expenses such as co-payments, co-insurance, and deductibles;

(b) (i) if coverage is or becomes available at a reasonable cost, an order requiring the purchase and maintenance of appropriate health, hospital, and dental care insurance for the dependent children; and

(ii) a designation of which health, hospital, or dental insurance plan is primary and which health, hospital, or dental insurance plan is secondary in accordance with the provisions of Section 30-3-5.4 which will take effect if at any time a dependent child is covered by both parents' health, hospital, or dental insurance plans;

(c) pursuant to Section 15-4-6.5:

(i) an order specifying which party is responsible for the payment of joint debts, obligations, or liabilities of the parties contracted or incurred during marriage;

(ii) an order requiring the parties to notify respective creditors or obligees, regarding the court's division of debts, obligations, or liabilities and regarding the parties' separate, current addresses; and

(iii) provisions for the enforcement of these orders;

(d) provisions for income withholding in accordance with Title 62A, Chapter 11, Recovery Services; and

(e) if either party owns a life insurance policy or an annuity contract, an acknowledgment by the court that the owner:

(i) has reviewed and updated, where appropriate, the list of beneficiaries;

(ii) has affirmed that those listed as beneficiaries are in fact the intended beneficiaries after the divorce becomes final; and

(iii) understands that if no changes are made to the policy or contract, the beneficiaries currently listed will receive any funds paid by the insurance company under the terms of the policy or contract.

(2) The court may include, in an order determining child support, an order assigning financial responsibility for all or a portion of child care expenses incurred on behalf of the dependent children, necessitated by the employment or training of the custodial parent. If the court determines that the circumstances are appropriate and that the dependent children would be adequately cared for, it may include an order allowing the noncustodial parent to provide child care for the dependent children, necessitated by the employment or training of the custodial parent.

(3) The court has continuing jurisdiction to make subsequent changes or new orders for the custody of the children and their support, maintenance, health, and dental care, and for distribution of the property and obligations for debts as is reasonable and necessary.

(4) Child support, custody, visitation, and other matters related to children born to the mother and father after entry of the decree of divorce may be added to the decree by modification.

(5) (a) In determining parent-time rights of parents and visitation rights of grandparents and other members of the immediate family, the court shall consider the best interest of the child.

(b) Upon a specific finding by the court of the need for peace officer enforcement, the court may include in an order establishing a parent-time or visitation schedule a provision, among other things, authorizing any peace officer to enforce a court-ordered parent-time or visitation schedule entered under this chapter.

(6) If a petition for modification of child custody or parent-time provisions of a court order is made and denied, the court shall order the petitioner to pay the reasonable attorneys' fees expended by the prevailing party in that action, if the court determines that the petition was without merit and not asserted or defended against in good faith.

(7) If a petition alleges noncompliance with a parent-time order by a parent, or a visitation order by a grandparent or other member of the immediate family where a visitation or parent-time right has been previously granted by the court, the court may award to the prevailing party costs, including actual attorney fees and court costs incurred by the prevailing party because of the other party's failure to provide or exercise court-ordered visitation or parent-time.

(8) (a) The court shall consider at least the following factors in determining alimony:

(i) the financial condition and needs of the recipient spouse;

(ii) the recipient's earning capacity or ability to produce income;

(iii) the ability of the payor spouse to provide support;

(iv) the length of the marriage;

(v) whether the recipient spouse has custody of minor children requiring support;

(vi) whether the recipient spouse worked in a business owned or operated by the payor spouse; and

(vii) whether the recipient spouse directly contributed to any increase in the payor spouse's skill by paying for education received by the payor spouse or enabling

the payor spouse to attend school during the marriage.

(b) The court may consider the fault of the parties in determining whether to award alimony and the terms thereof.

(c) "Fault" means any of the following wrongful conduct during the marriage that substantially contributed to the breakup of the marriage relationship:

(i) engaging in sexual relations with a person other than the party's spouse;

(ii) knowingly and intentionally causing or attempting to cause physical harm to the other party or minor children;

(iii) knowingly and intentionally causing the other party or minor children to reasonably fear life-threatening harm; or

(iv) substantially undermining the financial stability of the other party or the minor children.

(d) The court may, when fault is at issue, close the proceedings and seal the court records.

(e) As a general rule, the court should look to the standard of living, existing at the time of separation, in determining alimony in accordance with Subsection (8)(a). However, the court shall consider all relevant facts and equitable principles and may, in its discretion, base alimony on the standard of living that existed at the time of trial. In marriages of short duration, when no children have been conceived or born during the marriage, the court may consider the standard of living that existed at the time of the marriage.

(f) The court may, under appropriate circumstances, attempt to equalize the parties' respective standards of living.

(g) When a marriage of long duration dissolves on the threshold of a major change in the income of one of the spouses due to the collective efforts of both, that change shall be considered in dividing the marital property and in determining the amount of alimony. If one spouse's earning capacity has been greatly enhanced through the efforts of both spouses during the marriage, the court may make a compensating adjustment in dividing the marital property and awarding alimony.

(h) In determining alimony when a marriage of short duration dissolves, and no children have been conceived or born during the marriage, the court may consider restoring each party to the condition which existed at the time of the marriage.

(i) (i) The court has continuing jurisdiction to make substantive changes and new orders regarding alimony based on a substantial material change in circumstances not foreseeable at the time of the divorce.

(ii) The court may not modify alimony or issue a new order for alimony to address needs of the recipient that did not exist at the time the decree was entered, unless the court finds extenuating circumstances that justify that action.

(iii) In determining alimony, the income of any subsequent spouse of the payor may not be considered, except as provided in this Subsection (8).

(A) The court may consider the subsequent spouse's financial ability to share living expenses.

(B) The court may consider the income of a subsequent spouse if the court finds that the payor's improper conduct justifies that consideration.

(j) Alimony may not be ordered for a duration longer than the number of years that the marriage existed unless, at any time prior to termination of alimony, the court

finds extenuating circumstances that justify the payment of alimony for a longer period of time.

(9) Unless a decree of divorce specifically provides otherwise, any order of the court that a party pay alimony to a former spouse automatically terminates upon the remarriage or death of that former spouse. However, if the remarriage is annulled and found to be void ab initio, payment of alimony shall resume if the party paying alimony is made a party to the action of annulment and the payor party's rights are determined.

(10) Any order of the court that a party pay alimony to a former spouse terminates upon establishment by the party paying alimony that the former spouse is cohabitating with another person.

Amended by Chapter 264, 2013 General Session
Amended by Chapter 373, 2013 General Session

30-3-5.1. Provision for income withholding in child support order.

Whenever a court enters an order for child support, it shall include in the order a provision for withholding income as a means of collecting child support as provided in Title 62A, Chapter 11, Recovery Services.

Amended by Chapter 232, 1997 General Session

30-3-5.2. Allegations of child abuse or child sexual abuse -- Investigation.

When, in any divorce proceeding or upon a request for modification of a divorce decree, an allegation of child abuse or child sexual abuse is made, implicating either party, the court, after making an inquiry, may order that an investigation be conducted by the Division of Child and Family Services within the Department of Human Services in accordance with Title 62A, Chapter 4a, Child and Family Services. A final award of custody or parent-time may not be rendered until a report on that investigation, consistent with Section 62A-4a-412, is received by the court. That investigation shall be conducted by the Division of Child and Family Services within 30 days of the court's notice and request for an investigation. In reviewing this report, the court shall comply with Sections 78A-2-228 and 78B-15-612.

Amended by Chapter 223, 2012 General Session

30-3-5.4. Designation of primary and secondary health, dental, or hospital insurance coverage.

(1) For purposes of this section, "health, hospital, or dental insurance plan" has the same meaning as "health care insurance" as defined in Section 31A-1-301.

(2) (a) A decree of divorce rendered in accordance with Section 30-3-5, an order for medical expenses rendered in accordance with Section 78B-12-212, and an administrative order under Section 62A-11-326 shall, in accordance with Subsection (2)(b)(ii), designate which parent's health, hospital, or dental insurance plan is primary coverage and which parent's health, hospital, or dental insurance plan is secondary coverage for a dependent child.

(b) The provisions of the court order required by Subsection (2)(a) shall:

(i) take effect if at any time a dependent child is covered by both parents' health, hospital, or dental insurance plans; and

(ii) include the following language:

"If, at any point in time, a dependent child is covered by the health, hospital, or dental insurance plans of both parents, the health, hospital, or dental insurance plan of (Parent's Name) shall be primary coverage for the dependent child and the health, hospital, or dental insurance plan of (Other Parent's Name) shall be secondary coverage for the dependent child. If a parent remarries and his or her dependent child is not covered by that parent's health, hospital, or dental insurance plan but is covered by a step-parent's plan, the health, hospital, or dental insurance plan of the step-parent shall be treated as if it is the plan of the remarried parent and shall retain the same designation as the primary or secondary plan of the dependent child."

(c) A decree of divorce or related court order may not modify the language required by Subsection (2)(b)(ii).

(d) Notwithstanding Subsection (2)(c), a court may allocate the payment of medical expenses including co-payments, deductibles, and co-insurance not covered by health insurance between the parents in accordance with Subsections 30-3-5(1)(a) and 78B-12-212(6).

(3) In designating primary coverage pursuant to Subsection (2), a court may take into account:

(a) the birth dates of the parents;

(b) a requirement in a court order, if any, for one of the parents to maintain health insurance coverage for a dependent child;

(c) the parent with physical custody of the dependent child; or

(d) any other factor the court considers relevant.

Enacted by Chapter 285, 2010 General Session

30-3-7. When decree becomes absolute.

(1) The decree of divorce becomes absolute:

(a) on the date it is signed by the court and entered by the clerk in the register of actions;

(b) at the expiration of a period of time the court may specifically designate, unless an appeal or other proceedings for review are pending; or

(c) when the court, before the decree becomes absolute, for sufficient cause otherwise orders.

(2) The court, upon application or on its own motion for good cause shown, may waive, alter, or extend a designated period of time before the decree becomes absolute, but not to exceed six months from the signing and entry of the decree.

Amended by Chapter 404, 2012 General Session

30-3-8. Remarriage -- When unlawful.

Neither party to a divorce proceeding which dissolves their marriage by decree may marry any person other than the spouse from whom the divorce was granted until it becomes absolute. If an appeal is taken, the divorce is not absolute until after

affirmance of the decree.

Amended by Chapter 154, 1988 General Session

30-3-10. Custody of children in case of separation or divorce -- Custody consideration.

(1) If a husband and wife having minor children are separated, or their marriage is declared void or dissolved, the court shall make an order for the future care and custody of the minor children as it considers appropriate.

(a) In determining any form of custody, including a change in custody, the court shall consider the best interests of the child without preference for either the mother or father solely because of the biological sex of the parent and, among other factors the court finds relevant, the following:

(i) the past conduct and demonstrated moral standards of each of the parties;

(ii) which parent is most likely to act in the best interest of the child, including allowing the child frequent and continuing contact with the noncustodial parent;

(iii) the extent of bonding between the parent and child, meaning the depth, quality, and nature of the relationship between a parent and child; and

(iv) those factors outlined in Section 30-3-10.2.

(b) There shall be a rebuttable presumption that joint legal custody, as defined in Section 30-3-10.1, is in the best interest of the child, except in cases where there is:

(i) domestic violence in the home or in the presence of the child;

(ii) special physical or mental needs of a parent or child, making joint legal custody unreasonable;

(iii) physical distance between the residences of the parents, making joint decision making impractical in certain circumstances; or

(iv) any other factor the court considers relevant including those listed in this section and Section 30-3-10.2.

(c) The person who desires joint legal custody shall file a proposed parenting plan in accordance with Sections 30-3-10.8 and 30-3-10.9. A presumption for joint legal custody may be rebutted by a showing by a preponderance of the evidence that it is not in the best interest of the child.

(d) The children may not be required by either party to testify unless the trier of fact determines that extenuating circumstances exist that would necessitate the testimony of the children be heard and there is no other reasonable method to present their testimony.

(e) The court may inquire of the children and take into consideration the children's desires regarding future custody or parent-time schedules, but the expressed desires are not controlling and the court may determine the children's custody or parent-time otherwise. The desires of a child 14 years of age or older shall be given added weight, but is not the single controlling factor.

(f) If interviews with the children are conducted by the court pursuant to Subsection (1)(e), they shall be conducted by the judge in camera. The prior consent of the parties may be obtained but is not necessary if the court finds that an interview with the children is the only method to ascertain the child's desires regarding custody.

(2) In awarding custody, the court shall consider, among other factors the court

finds relevant, which parent is most likely to act in the best interests of the child, including allowing the child frequent and continuing contact with the noncustodial parent as the court finds appropriate.

(3) If the court finds that one parent does not desire custody of the child, the court shall take that evidence into consideration in determining whether to award custody to the other parent.

(4) (a) Except as provided in Subsection (4)(b), a court may not discriminate against a parent due to a disability, as defined in Section 57-21-2, in awarding custody or determining whether a substantial change has occurred for the purpose of modifying an award of custody.

(b) If a court takes a parent's disability into account in awarding custody or determining whether a substantial change has occurred for the purpose of modifying an award of custody, the parent with a disability may rebut any evidence, presumption, or inference arising from the disability by showing that:

(i) the disability does not significantly or substantially inhibit the parent's ability to provide for the physical and emotional needs of the child at issue; or

(ii) the parent with a disability has sufficient human, monetary, or other resources available to supplement the parent's ability to provide for the physical and emotional needs of the child at issue.

(c) Nothing in this section may be construed to apply to adoption proceedings under Title 78B, Chapter 6, Part 1, Utah Adoption Act.

(5) This section establishes neither a preference nor a presumption for or against joint physical custody or sole physical custody, but allows the court and the family the widest discretion to choose a parenting plan that is in the best interest of the child.

Amended by Chapter 22, 2013 General Session

30-3-10.1. Definitions -- Joint legal custody -- Joint physical custody.

As used in this chapter:

(1) "Joint legal custody":

(a) means the sharing of the rights, privileges, duties, and powers of a parent by both parents, where specified;

(b) may include an award of exclusive authority by the court to one parent to make specific decisions;

(c) does not affect the physical custody of the child except as specified in the order of joint legal custody;

(d) is not based on awarding equal or nearly equal periods of physical custody of and access to the child to each of the parents, as the best interest of the child often requires that a primary physical residence for the child be designated; and

(e) does not prohibit the court from specifying one parent as the primary caretaker and one home as the primary residence of the child.

(2) "Joint physical custody":

(a) means the child stays with each parent overnight for more than 30% of the year, and both parents contribute to the expenses of the child in addition to paying child support;

(b) can mean equal or nearly equal periods of physical custody of and access to the child by each of the parents, as required to meet the best interest of the child;

(c) may require that a primary physical residence for the child be designated; and

(d) does not prohibit the court from specifying one parent as the primary caretaker and one home as the primary residence of the child.

Amended by Chapter 269, 2003 General Session

30-3-10.2. Joint custody order -- Factors for court determination -- Public assistance.

(1) The court may order joint legal custody or joint physical custody or both if one or both parents have filed a parenting plan in accordance with Section 30-3-10.8 and it determines that joint legal custody or joint physical custody or both is in the best interest of the child.

(2) In determining whether the best interest of a child will be served by ordering joint legal or physical custody, the court shall consider the following factors:

(a) whether the physical, psychological, and emotional needs and development of the child will benefit from joint legal or physical custody;

(b) the ability of the parents to give first priority to the welfare of the child and reach shared decisions in the child's best interest;

(c) whether each parent is capable of encouraging and accepting a positive relationship between the child and the other parent, including the sharing of love, affection, and contact between the child and the other parent;

(d) whether both parents participated in raising the child before the divorce;

(e) the geographical proximity of the homes of the parents;

(f) the preference of the child if the child is of sufficient age and capacity to reason so as to form an intelligent preference as to joint legal or physical custody;

(g) the maturity of the parents and their willingness and ability to protect the child from conflict that may arise between the parents;

(h) the past and present ability of the parents to cooperate with each other and make decisions jointly;

(i) any history of, or potential for, child abuse, spouse abuse, or kidnaping; and

(j) any other factors the court finds relevant.

(3) The determination of the best interest of the child shall be by a preponderance of the evidence.

(4) The court shall inform both parties that an order for joint physical custody may preclude eligibility for cash assistance provided under Title 35A, Chapter 3, Employment Support Act.

(5) The court may order that where possible the parties attempt to settle future disputes by a dispute resolution method before seeking enforcement or modification of the terms and conditions of the order of joint legal custody or joint physical custody through litigation, except in emergency situations requiring ex parte orders to protect the child.

Amended by Chapter 142, 2005 General Session

30-3-10.3. Terms of joint legal or physical custody order.

(1) Unless the court orders otherwise, before a final order of joint legal custody or joint physical custody is entered both parties shall attend the mandatory course for divorcing parents, as provided in Section 30-3-11.3, and present a certificate of completion from the course to the court.

(2) An order of joint legal or physical custody shall provide terms the court determines appropriate, which may include specifying:

(a) either the county of residence of the child, until altered by further order of the court, or the custodian who has the sole legal right to determine the residence of the child;

(b) that the parents shall exchange information concerning the health, education, and welfare of the child, and where possible, confer before making decisions concerning any of these areas;

(c) the rights and duties of each parent regarding the child's present and future physical care, support, and education;

(d) provisions to minimize disruption of the child's attendance at school and other activities, his daily routine, and his association with friends; and

(e) as necessary, the remaining parental rights, privileges, duties, and powers to be exercised by the parents solely, concurrently, or jointly.

(3) The court shall, where possible, include in the order the terms of the parenting plan provided in accordance with Section 30-3-10.8.

(4) Any parental rights not specifically addressed by the court order may be exercised by the parent having physical custody of the child the majority of the time.

(5) The appointment of joint legal or physical custodians does not impair or limit the authority of the court to order support of the child, including payments by one custodian to the other.

(6) An order of joint legal custody, in itself, is not grounds for modifying a support order.

(7) An order of joint legal or physical custody shall require a parenting plan incorporating a dispute resolution procedure the parties agree to use:

(a) in accordance with Section 30-3-10.9, or as ordered by the court in accordance with Subsection 30-3-10.2(5); and

(b) before seeking enforcement or modification of the terms and conditions of the order of joint legal or physical custody through litigation, except in emergency situations requiring ex parte orders to protect the child.

Amended by Chapter 271, 2012 General Session

30-3-10.4. Modification or termination of order.

(1) On the petition of one or both of the parents, or the joint legal or physical custodians if they are not the parents, the court may, after a hearing, modify or terminate an order that established joint legal or physical custody if:

(a) the verified petition or accompanying affidavit initially alleges that admissible evidence will show that the circumstances of the child or one or both parents or joint legal or physical custodians have materially and substantially changed since the entry of the order to be modified;

(b) a modification of the terms and conditions of the order would be an improvement for and in the best interest of the child; and

(c) (i) both parents have complied in good faith with the dispute resolution procedure in accordance with Subsection 30-3-10.3(7); or

(ii) if no dispute resolution procedure is contained in the order that established joint legal or physical custody, the court orders the parents to participate in a dispute resolution procedure in accordance with Subsection 30-3-10.2(5) unless the parents certify that, in good faith, they have utilized a dispute resolution procedure to resolve their dispute.

(2) (a) In determining whether the best interest of a child will be served by either modifying or terminating the joint legal or physical custody order, the court shall, in addition to other factors the court considers relevant, consider the factors outlined in Section 30-3-10 and Subsection 30-3-10.2(2).

(b) A court order modifying or terminating an existing joint legal or physical custody order shall contain written findings that:

(i) a material and substantial change of circumstance has occurred; and

(ii) a modification of the terms and conditions of the order would be an improvement for and in the best interest of the child.

(c) The court shall give substantial weight to the existing joint legal or physical custody order when the child is thriving, happy, and well-adjusted.

(3) The court shall, in every case regarding a petition for termination of a joint legal or physical custody order, consider reasonable alternatives to preserve the existing order in accordance with Subsection 30-3-10(1)(b). The court may modify the terms and conditions of the existing order in accordance with Subsection 30-3-10(5) and may order the parents to file a parenting plan in accordance with this chapter.

(4) A parent requesting a modification from sole custody to joint legal custody or joint physical custody or both, or any other type of shared parenting arrangement, shall file and serve a proposed parenting plan with the petition to modify in accordance with Section 30-3-10.8.

(5) If the court finds that an action under this section is filed or answered frivolously and in a manner designed to harass the other party, the court shall assess attorney fees as costs against the offending party.

Amended by Chapter 271, 2012 General Session

30-3-10.5. Payments of support, maintenance, and alimony.

(1) All monthly payments of support, maintenance, or alimony provided for in the order or decree shall be due on the first day of each month for purposes of Section 78B-12-112, child support services pursuant to Title 62A, Chapter 11, Part 3, Public Support of Child, income withholding services pursuant to Title 62A, Chapter 11, Part 4, Income Withholding in IV-D Cases, and other income withholding procedures pursuant to Title 62A, Chapter 11, Part 5, Income Withholding in Non IV-D Cases.

(2) For purposes of child support services and income withholding pursuant to Title 62A, Chapter 11, Part 3 and Part 4, child support is not considered past due until the first day of the following month.

(3) For purposes other than those specified in Subsections (1) and (2), support

shall be payable 1/2 by the 5th day of each month and 1/2 by the 20th day of that month, unless the order or decree provides for a different time for payment.

Amended by Chapter 3, 2008 General Session

30-3-10.7. Parenting plan -- Definitions.

(1) "Domestic violence" means the same as in Section 77-36-1.

(2) "Parenting plan" means a plan for parenting a child, including allocation of parenting functions, which is incorporated in any final decree or decree of modification including an action for dissolution of marriage, annulment, legal separation, or paternity.

(3) "Parenting functions" means those aspects of the parent-child relationship in which the parent makes decisions and performs functions necessary for the care and growth of the child. Parenting functions include:

(a) maintaining a loving, stable, consistent, and nurturing relationship with the child;

(b) attending to the daily needs of the child, such as feeding, clothing, physical care, grooming, supervision, health care, day care, and engaging in other activities which are appropriate to the developmental level of the child and that are within the social and economic circumstances of the particular family;

(c) attending to adequate education for the child, including remedial or other education essential to the best interest of the child;

(d) assisting the child in developing and maintaining appropriate interpersonal relationships;

(e) exercising appropriate judgment regarding the child's welfare, consistent with the child's developmental level and family social and economic circumstances; and

(f) providing for the financial support of the child.

Amended by Chapter 287, 2006 General Session

30-3-10.8. Parenting plan -- Filing -- Modifications.

(1) In any proceeding under this chapter, including actions for paternity, any party requesting joint custody, joint legal or physical custody, or any other type of shared parenting arrangement, shall file and serve a proposed parenting plan at the time of the filing of their original petition or at the time of filing their answer or counterclaim.

(2) In proceedings for a modification of custody provisions or modification of a parenting plan, a proposed parenting plan shall be filed and served with the petition to modify, or the answer or counterclaim to the petition to modify.

(3) A party who files a proposed parenting plan in compliance with this section may move the court for an order of default to adopt the plan if the other party fails to file a proposed parenting plan as required by this section.

(4) Either party may file and serve an amended proposed parenting plan according to the rules for amending pleadings.

(5) The parent submitting a proposed parenting plan shall attach a verified statement that the plan is proposed by that parent in good faith.

(6) Both parents may submit a parenting plan which has been agreed upon. A

verified statement, signed by both parents, shall be attached.

(7) If the parents file inconsistent parenting plans, the court may appoint a guardian ad litem to represent the best interests of the child, who may, if necessary, file a separate parenting plan reflecting the best interests of the child.

Enacted by Chapter 126, 2001 General Session

30-3-10.9. Parenting plan -- Objectives -- Required provisions -- Dispute resolution.

(1) The objectives of a parenting plan are to:

(a) provide for the child's physical care;

(b) maintain the child's emotional stability;

(c) provide for the child's changing needs as the child grows and matures in a way that minimizes the need for future modifications to the parenting plan;

(d) set forth the authority and responsibilities of each parent with respect to the child consistent with the definitions outlined in this chapter;

(e) minimize the child's exposure to harmful parental conflict;

(f) encourage the parents, where appropriate, to meet the responsibilities to their minor children through agreements in the parenting plan rather than relying on judicial intervention; and

(g) protect the best interests of the child.

(2) The parenting plan shall contain provisions for resolution of future disputes between the parents, allocation of decision-making authority, and residential provisions for the child, and provisions addressing notice and parent-time responsibilities in the event of the relocation of either party. It may contain other provisions comparable to those in Sections 30-3-5 and 30-3-10.3 regarding the welfare of the child.

(3) A process for resolving disputes shall be provided unless precluded or limited by statute. A dispute resolution process may include:

(a) counseling;

(b) mediation or arbitration by a specified individual or agency; or

(c) court action.

(4) In the dispute resolution process:

(a) preference shall be given to the provisions in the parenting plan;

(b) parents shall use the designated process to resolve disputes relating to implementation of the plan, except those related to financial support, unless an emergency exists;

(c) a written record shall be prepared of any agreement reached in counseling or mediation and provided to each party;

(d) if arbitration becomes necessary, a written record shall be prepared and a copy of the arbitration award shall be provided to each party;

(e) if the court finds that a parent has used or frustrated the dispute resolution process without good reason, the court may award attorney's fees and financial sanctions to the prevailing parent;

(f) the district court shall have the right of review from the dispute resolution process; and

(g) the provisions of this Subsection (4) shall be set forth in any final decree or

order.

(5) The parenting plan shall allocate decision-making authority to one or both parties regarding the children's education, health care, and religious upbringing. The parties may incorporate an agreement related to the care and growth of the children in these specified areas or in other areas into their plan, consistent with the criteria outlined in Subsection 30-3-10.7(2) and Subsection (1). Regardless of the allocation of decision-making in the parenting plan, either parent may make emergency decisions affecting the health or safety of the child.

(6) Each parent may make decisions regarding the day-to-day care and control of the child while the child is residing with that parent.

(7) When mutual decision-making is designated but cannot be achieved, the parties shall make a good faith effort to resolve the issue through the dispute resolution process.

(8) The plan shall include a residential schedule which designates in which parent's home each minor child shall reside on given days of the year, including provisions for holidays, birthdays of family members, vacations, and other special occasions.

(9) If a parent fails to comply with a provision of the parenting plan or a child support order, the other parent's obligations under the parenting plan or the child support order are not affected. Failure to comply with a provision of the parenting plan or a child support order may result in a finding of contempt of court.

Amended by Chapter 288, 2003 General Session

30-3-10.10. Parenting plan -- Domestic violence.

(1) In any proceeding regarding a parenting plan, the court shall consider evidence of domestic violence, if presented.

(2) If there is a protective order, civil stalking injunction, or the court finds that a parent has committed domestic violence, the court shall consider the impact of domestic violence in awarding parent-time, and make specific findings regarding the award of parent-time.

(3) If the court orders parent-time and a protective order or civil stalking injunction is still in place, it shall consider whether to order the parents to conduct parent-time pick-up and transfer through a third party. The parent who is the stated victim in the order or injunction may submit to the court, and the court shall consider, the name of a person considered suitable to act as the third party.

(4) If the court orders the parents to conduct parent-time through a third party, the parenting plan shall specify the time, day, place, manner, and the third party to be used to implement the exchange.

Enacted by Chapter 287, 2006 General Session

30-3-10.17. Social security number in court records.

The social security number of any individual who is subject to a divorce decree, support order, or paternity determination or acknowledgment shall be placed in the records relating to the matter.

Enacted by Chapter 232, 1997 General Session

30-3-11.1. Family Court Act -- Purpose.

It is the public policy of the state of Utah to strengthen the family life foundation of our society and reduce the social and economic costs to the state resulting from broken homes and to take reasonable measures to preserve marriages, particularly where minor children are involved. The purposes of this act are to protect the rights of children and to promote the public welfare by preserving and protecting family life and the institution of matrimony by providing the courts with further assistance for family counseling, the reconciliation of spouses and the amicable settlement of domestic and family controversies.

Enacted by Chapter 72, 1969 General Session

30-3-11.2. Appointment of counsel for child.

If, in any action before any court of this state involving the custody or support of a child, it shall appear in the best interests of the child to have a separate exposition of the issues and personal representation for the child, the court may appoint counsel to represent the child throughout the action, and the attorney's fee for such representation may be taxed as a cost of the action.

Enacted by Chapter 72, 1969 General Session

30-3-11.3. Mandatory educational course for divorcing parents -- Purpose -- Curriculum -- Exceptions.

(1) The Judicial Council shall approve and implement a mandatory course for divorcing parents in all judicial districts. The mandatory course is designed to educate and sensitize divorcing parties to their children's needs both during and after the divorce process.

(2) The Judicial Council shall adopt rules to implement and administer this program.

(3) As a prerequisite to receiving a divorce decree, both parties are required to attend a mandatory course on their children's needs after filing a complaint for divorce and receiving a docket number, unless waived under Section 30-3-4. If that requirement is waived, the court may permit the divorce action to proceed.

(4) The court may require unmarried parents to attend this educational course when those parents are involved in a visitation or custody proceeding before the court.

(5) The mandatory course shall instruct both parties:

(a) about divorce and its impacts on:

(i) their child or children;

(ii) their family relationship; and

(iii) their financial responsibilities for their child or children; and

(b) that domestic violence has a harmful effect on children and family relationships.

(6) The Administrative Office of the Courts shall administer the course pursuant

to Title 63G, Chapter 6a, Utah Procurement Code, through private or public contracts and organize the program in each of Utah's judicial districts. The contracts shall provide for the recoupment of administrative expenses through the costs charged to individual parties, pursuant to Subsection (8).

(7) A certificate of completion constitutes evidence to the court of course completion by the parties.

(8) (a) Each party shall pay the costs of the course to the independent contractor providing the course at the time and place of the course. A fee of $8 shall be collected, as part of the course fee paid by each participant, and deposited in the Children's Legal Defense Account, described in Section 51-9-408.

(b) Each party who is unable to pay the costs of the course may attend the course without payment upon a prima facie showing of impecuniosity as evidenced by an affidavit of impecuniosity filed in the district court. In those situations, the independent contractor shall be reimbursed for its costs from the appropriation to the Administrative Office of the Courts for "Mandatory Educational Course for Divorcing Parents Program." Before a decree of divorce may be entered, the court shall make a final review and determination of impecuniosity and may order the payment of the costs if so determined.

(9) Appropriations from the General Fund to the Administrative Office of the Courts for the "Mandatory Educational Course for Divorcing Parents Program" shall be used to pay the costs of an indigent parent who makes a showing as provided in Subsection (8)(b).

(10) The Administrative Office of the Courts shall adopt a program to evaluate the effectiveness of the mandatory educational course. Progress reports shall be provided if requested by the Judiciary Interim Committee.

Amended by Chapter 347, 2012 General Session

30-3-11.4. Mandatory orientation course for divorcing parties -- Purpose -- Curriculum -- Exceptions.

(1) There is established a mandatory divorce orientation course for all parties with minor children who file a petition for temporary separation or for a divorce. A couple with no minor children are not required, but may choose to attend the course. The purpose of the course shall be to educate parties about the divorce process and reasonable alternatives.

(2) A petitioner shall attend a divorce orientation course no more than 60 days after filing a petition for divorce.

(3) The respondent shall attend the divorce orientation course no more than 30 days after being served with a petition for divorce.

(4) The clerk of the court shall provide notice to a petitioner of the requirement for the course, and information regarding the course shall be included with the petition or motion, when served on the respondent.

(5) The divorce orientation course shall be neutral, unbiased, at least one hour in duration, and include:

(a) options available as alternatives to divorce;

(b) resources available from courts and administrative agencies for resolving

custody and support issues without filing for divorce;

(c) resources available to improve or strengthen the marriage;

(d) a discussion of the positive and negative consequences of divorce;

(e) a discussion of the process of divorce;

(f) options available for proceeding with a divorce, including:

(i) mediation;

(ii) collaborative law; and

(iii) litigation; and

(g) a discussion of post-divorce resources.

(6) The course may be provided in conjunction with the mandatory course for divorcing parents required by Section 30-3-11.3.

(7) The Administrative Office of the Courts shall administer the course pursuant to Title 63G, Chapter 6a, Utah Procurement Code, through private or public contracts.

(8) Each participant shall pay the costs of the course, which may not exceed $20, to the independent contractor providing the course at the time and place of the course.

(a) A fee of $5 shall be collected, as part of the course fee paid by each participant, and deposited in the Children's Legal Defense Account described in Section 51-9-408.

(b) A participant who is unable to pay the costs of the course may attend without payment and request an Affidavit of Impecuniosity from the provider to be filed with the petition or motion. The provider shall be reimbursed for its costs by the Administrative Office of the Courts. A petitioner who is later determined not to meet the qualifications for impecuniosity may be ordered to pay the costs of the course.

(9) Appropriations from the General Fund to the Administrative Office of the Courts for the divorce orientation course shall be used to pay the costs of an indigent petitioner who is determined to be impecunious as provided in Subsection (8)(b).

(10) The Online Court Assistance Program shall include instructions with the forms for divorce which inform the petitioner of the requirement of this section.

(11) Both parties shall attend a divorce orientation course before a divorce decree may be entered, unless waived by the court. A certificate of completion constitutes evidence to the court of course completion by the parties.

(12) It shall be an affirmative defense in all divorce actions that the divorce orientation requirement was not complied with, and the action may not continue until a party has complied.

(13) The Administrative Office of the Courts shall adopt a program to evaluate the effectiveness of the mandatory educational course. Progress reports shall be provided if requested by the Judiciary Interim Committee.

Amended by Chapter 347, 2012 General Session

30-3-12. Courts to exercise family counseling powers.

Each district court of the respective judicial districts, while sitting in matters of divorce, annulment, separate maintenance, child custody, alimony and support in connection therewith, child custody in habeas corpus proceedings, and adoptions, shall exercise the family counseling powers conferred by this act.

Amended by Chapter 72, 1969 General Session

30-3-13.1. Establishment of family court division of district court.

A family court division of the district court may be established with the consent of the county legislative body in a county in which the district court determines that the social conditions in the county and the number of domestic relations cases in the courts require use of the procedures provided for in this act in order to give full and proper consideration to such cases and to effectuate the purposes of this act. The determination shall be made annually by the judge of the district court in counties having only one judge, and by a majority of the judges of the district court in counties having more than one judge.

Amended by Chapter 227, 1993 General Session

30-3-14.1. Designation of judges -- Terms.

In a county within a judicial district having more than one judge of the district court but having a population of less than 300,000 and in which the district court has established a family court division, the presiding judge of such court shall annually, in the month of September, designate at least one judge to hear all cases under this act. In a county within a judicial district having more than one judge of the district court and having a population of more than 300,000 and in which the district court has established a family court division, the presiding judge of such court shall annually, in the month of September, designate at least two judges to hear all cases under this act, and shall designate one of such judges as the presiding judge of such family court division. Such judge or judges shall serve on the family court division not less than one year and devote their time primarily to divorce and other domestic relations cases.

Enacted by Chapter 72, 1969 General Session

30-3-15.1. Appointment of domestic relations counselors, family court commissioner, and assistants and clerks.

In each county having a population of less than 300,000 and in which the district court has established a family court division the district court judge or judges may, and in each county having a population of more than 300,000 and in which the district court has established a family court division the district court judges shall, by an order filed in the office of the clerk on or before July 1 of each year, appoint one or more domestic relations counselors, an attorney of recognized ability and standing at the bar as family court commissioner, and such other persons as assistants and clerks as may be necessary, to serve during the pleasure of the appointing power.

Enacted by Chapter 72, 1969 General Session

30-3-15.3. Commissioners -- Powers.

Commissioners shall:

(1) secure compliance with court orders;

(2) require attendance at the mandatory course as provided in Section 30-3-11.3;

(3) serve as judge pro tempore, master or referee on:

(a) assignment of the court; and

(b) with the written consent of the parties:

(i) orders to show cause where no contempt is alleged;

(ii) default divorces where the parties have had marriage counseling but there has been no reconciliation;

(iii) uncontested actions under Title 78B, Chapter 15, Utah Uniform Parentage Act;

(iv) actions under Title 78B, Chapter 12, Utah Child Support Act; and

(v) actions under Title 78B, Chapter 14, Uniform Interstate Family Support Act; and

(4) represent the interest of children in divorce or annulment actions, and the parties in appropriate cases.

Amended by Chapter 3, 2008 General Session

30-3-15.4. Salaries and expenses.

Salaries of persons appointed under the foregoing sections shall be fixed by the county legislative body of the county in which they serve. Office space, furnishings, equipment, and supplies for family court commissioners and conciliation staff shall be provided by the county. The expenses and salaries of family court commissioners and conciliation staff shall be paid from county funds.

Amended by Chapter 79, 1996 General Session

30-3-16.1. Jurisdiction of family court division -- Powers.

Whenever any controversy exists between spouses which may, unless a reconciliation is achieved, result in the dissolution or annulment of the marriage or in the disruption of the household, and there is a child of the spouses or either of them under the age of 17 years whose welfare might be affected, the family court division of the district court shall have jurisdiction over the controversy, over the parties and over all persons having any relation to the controversy and may compel attendance before the court or a domestic relations counselor of the parties or other persons related to the controversy. The court may make orders in divorce or conciliation proceeding as it deems necessary for the protection of the family interests.

Enacted by Chapter 72, 1969 General Session

30-3-16.2. Petition for conciliation.

Prior to the filing of any action for divorce, annulment, or separate maintenance, either spouse or both spouses may file a petition for conciliation in the family court division invoking the jurisdiction of the court for the purpose of preserving the marriage by effecting a reconciliation between the parties or an amicable settlement of the controversy between them so as to avoid litigation over the issues involved.

Enacted by Chapter 72, 1969 General Session

30-3-16.3. Contents of petition.

The petition for conciliation shall state:

(1) A controversy exists between the spouses and request the aid of the court to effect a reconciliation or an amicable settlement of the controversy.

(2) The name and age of each child under the age of 17 years whose welfare may be affected by the controversy.

(3) The name and address of the petitioner or the names and addresses of the petitioners.

(4) If the petition is filed by one spouse only, the name and address of the other spouse as a respondent.

(5) The name, as a respondent, of any other person who has any relation to the controversy and, if known to the petitioners, the address of such person.

(6) Such other information as the court may by rule require.

Enacted by Chapter 72, 1969 General Session

30-3-16.4. Procedure upon filing of petition.

When a petition for conciliation is filed in the family court division of the district court, the court shall refer the matter to the domestic relations counselor or counselors and shall cause notice to be given to the spouses, by mail or in a form prescribed by the court, of the filing of the petition and of the time and place of any hearing, conference or other proceeding scheduled by the court or domestic relations counselors under this act.

Enacted by Chapter 72, 1969 General Session

30-3-16.5. Fees.

The court may fix fees to be charged for filing a petition for conciliation and for use of the courts' counseling services.

Enacted by Chapter 72, 1969 General Session

30-3-16.6. Information not available to public.

Neither the names of petitioners nor respondents, nor the contents of petitions for conciliation filed under this act, shall be available or open to public inquiry, except that an attorney for a person seeking to file an action for divorce, annulment or separate maintenance may determine from the clerk of the court if the other spouse has filed a petition for conciliation.

Enacted by Chapter 72, 1969 General Session

30-3-16.7. Effect of petition -- Pendency of action.

(1) The filing of a petition for conciliation under this act shall, for a period of 60

days thereafter, act as a bar to the filing by either spouse of an action for divorce, annulment of marriage or separate maintenance unless the court otherwise orders.

(2) The pendency of an action for divorce, annulment of marriage or separate maintenance does not prevent either party to the action from filing a petition for conciliation under this act, either on the party's own or at the request and direction of the court as authorized by Section 30-3-17.

(3) The filing of a petition for conciliation shall stay for a period of 60 days, unless the court otherwise orders, any trial or default hearing upon the complaint.

(4) Notwithstanding any other provision of this section, when the judge of the family court division is advised in writing by a marriage counselor to whom a petition for conciliation has been referred that a reconciliation of the parties cannot be effected, the bar to filing an action or the stay of trial or default hearing shall be removed.

Amended by Chapter 297, 2011 General Session

30-3-17. Power and jurisdiction of judge.

(1) The judge of a district court may:

(a) counsel either spouse or both;

(b) in the judge's discretion require one or both spouses to appear before the judge;

(c) in those counties where a domestic relations counselor has been appointed pursuant to this chapter, require the spouses to file a petition for conciliation and to appear before the counselor; or

(d) recommend the aid of:

(i) a physician, psychiatrist, psychologist, social service worker, or other specialists or scientific expert; or

(ii) the pastor, bishop, or presiding officer of any religious denomination to which the parties may belong.

(2) The power and jurisdiction granted by this chapter is in addition to, and not in limitation of, that presently exercised by the district courts.

Amended by Chapter 297, 2011 General Session

30-3-17.1. Proceedings considered confidential -- Written evaluation by counselor.

(1) The petition for conciliation and all communications, verbal or written, from the parties to the domestic relations counselors or other personnel of the conciliation department in counseling or conciliation proceedings shall be considered to be made in official confidence within the meaning of Section 78B-1-137 and is not admissible or usable for any purpose in any divorce hearing or other proceeding.

(2) Notwithstanding Subsection (1), the marriage counselor may submit to the appropriate court a written evaluation of the prospects or prognosis of a particular marriage without divulging facts or revealing confidential disclosures.

Amended by Chapter 297, 2011 General Session

30-3-18. Waiting period for hearing after filing for divorce -- Exemption -- Use of counseling and education services not to be construed as condonation or promotion.

(1) Unless the court finds that extraordinary circumstances exist and otherwise orders, no hearing for decree of divorce may be held by the court until 90 days has elapsed from the filing of the complaint, but the court may make interim orders as it considers just and equitable.

(2) The use of counseling, mediation, and education services provided under this chapter may not be construed as condoning the acts that may constitute grounds for divorce on the part of either spouse nor of promoting divorce.

Amended by Chapter 404, 2012 General Session

30-3-32. Parent-time -- Intent -- Policy -- Definitions.

(1) It is the intent of the Legislature to promote parent-time at a level consistent with all parties' interests.

(2) (a) A court shall consider as primary the safety and well-being of the child and the parent who is the victim of domestic or family violence.

(b) Absent a showing by a preponderance of evidence of real harm or substantiated potential harm to the child:

(i) it is in the best interests of the child of divorcing, divorced, or adjudicated parents to have frequent, meaningful, and continuing access to each parent following separation or divorce;

(ii) each divorcing, separating, or adjudicated parent is entitled to and responsible for frequent, meaningful, and continuing access with his child consistent with the child's best interests; and

(iii) it is in the best interests of the child to have both parents actively involved in parenting the child.

(c) An order issued by a court pursuant to Title 78B, Chapter 7, Part 1, Cohabitant Abuse Act shall be considered evidence of real harm or substantiated potential harm to the child.

(3) For purposes of Sections 30-3-32 through 30-3-37:

(a) "Child" means the child or children of divorcing, separating, or adjudicated parents.

(b) "Christmas school vacation" means the time period beginning on the evening the child gets out of school for the Christmas or winter school break until the evening before the child returns to school.

(c) "Extended parent-time" means a period of parent-time other than a weekend, holiday as provided in Subsections 30-3-35(2)(f) and (2)(g), religious holidays as provided in Subsections 30-3-33(3) and (17), and "Christmas school vacation."

(d) "Surrogate care" means care by any individual other than the parent of the child.

(e) "Uninterrupted time" means parent-time exercised by one parent without interruption at any time by the presence of the other parent.

(f) "Virtual parent-time" means parent-time facilitated by tools such as telephone, email, instant messaging, video conferencing, and other wired or wireless

technologies over the Internet or other communication media to supplement in-person visits between a noncustodial parent and a child or between a child and the custodial parent when the child is staying with the noncustodial parent. Virtual parent-time is designed to supplement, not replace, in-person parent-time.

(4) If a parent relocates because of an act of domestic violence or family violence by the other parent, the court shall make specific findings and orders with regards to the application of Section 30-3-37.

Amended by Chapter 3, 2008 General Session
Amended by Chapter 146, 2008 General Session

30-3-33. Advisory guidelines.

In addition to the parent-time schedules provided in Sections 30-3-35 and 30-3-35.5, the following advisory guidelines are suggested to govern all parent-time arrangements between parents.

(1) Parent-time schedules mutually agreed upon by both parents are preferable to a court-imposed solution.

(2) The parent-time schedule shall be utilized to maximize the continuity and stability of the child's life.

(3) Special consideration shall be given by each parent to make the child available to attend family functions including funerals, weddings, family reunions, religious holidays, important ceremonies, and other significant events in the life of the child or in the life of either parent which may inadvertently conflict with the parent-time schedule.

(4) The responsibility for the pick up, delivery, and return of the child shall be determined by the court when the parent-time order is entered, and may be changed at any time a subsequent modification is made to the parent-time order.

(5) If the noncustodial parent will be providing transportation, the custodial parent shall have the child ready for parent-time at the time the child is to be picked up and shall be present at the custodial home or shall make reasonable alternate arrangements to receive the child at the time the child is returned.

(6) If the custodial parent will be transporting the child, the noncustodial parent shall be at the appointed place at the time the noncustodial parent is to receive the child, and have the child ready to be picked up at the appointed time and place, or have made reasonable alternate arrangements for the custodial parent to pick up the child.

(7) Regular school hours may not be interrupted for a school-age child for the exercise of parent-time by either parent.

(8) The court may make alterations in the parent-time schedule to reasonably accommodate the work schedule of both parents and may increase the parent-time allowed to the noncustodial parent but may not diminish the standardized parent-time provided in Sections 30-3-35 and 30-3-35.5.

(9) The court may make alterations in the parent-time schedule to reasonably accommodate the distance between the parties and the expense of exercising parent-time.

(10) Neither parent-time nor child support is to be withheld due to either parent's failure to comply with a court-ordered parent-time schedule.

(11) The custodial parent shall notify the noncustodial parent within 24 hours of receiving notice of all significant school, social, sports, and community functions in which the child is participating or being honored, and the noncustodial parent shall be entitled to attend and participate fully.

(12) The noncustodial parent shall have access directly to all school reports including preschool and daycare reports and medical records and shall be notified immediately by the custodial parent in the event of a medical emergency.

(13) Each parent shall provide the other with the parent's current address and telephone number, email address, and other virtual parent-time access information within 24 hours of any change.

(14) Each parent shall permit and encourage, during reasonable hours, reasonable and uncensored communications with the child, in the form of mail privileges and virtual parent-time if the equipment is reasonably available, provided that if the parties cannot agree on whether the equipment is reasonably available, the court shall decide whether the equipment for virtual parent-time is reasonably available, taking into consideration:

(a) the best interests of the child;

(b) each parent's ability to handle any additional expenses for virtual parent-time; and

(c) any other factors the court considers material.

(15) Parental care shall be presumed to be better care for the child than surrogate care and the court shall encourage the parties to cooperate in allowing the noncustodial parent, if willing and able to transport the children, to provide the child care. Child care arrangements existing during the marriage are preferred as are child care arrangements with nominal or no charge.

(16) Each parent shall provide all surrogate care providers with the name, current address, and telephone number of the other parent and shall provide the noncustodial parent with the name, current address, and telephone number of all surrogate care providers unless the court for good cause orders otherwise.

(17) Each parent shall be entitled to an equal division of major religious holidays celebrated by the parents, and the parent who celebrates a religious holiday that the other parent does not celebrate shall have the right to be together with the child on the religious holiday.

(18) If the child is on a different parent-time schedule than a sibling, based on Sections 30-3-35 and 30-3-35.5, the parents should consider if an upward deviation for parent-time with all the minor children so that parent-time is uniform between school aged and nonschool aged children, is appropriate.

Amended by Chapter 297, 2011 General Session

30-3-34. Best interests -- Rebuttable presumption.

(1) If the parties are unable to agree on a parent-time schedule, the court may establish a parent-time schedule consistent with the best interests of the child.

(2) The advisory guidelines as provided in Section 30-3-33 and the parent-time schedule as provided in Sections 30-3-35 and 30-3-35.5 shall be presumed to be in the best interests of the child. The parent-time schedule shall be considered the minimum

parent-time to which the noncustodial parent and the child shall be entitled unless a parent can establish otherwise by a preponderance of the evidence that more or less parent-time should be awarded based upon any of the following criteria:

(a) parent-time would endanger the child's physical health or significantly impair the child's emotional development;

(b) the distance between the residency of the child and the noncustodial parent;

(c) a substantiated or unfounded allegation of child abuse has been made;

(d) the lack of demonstrated parenting skills without safeguards to ensure the child's well-being during parent-time;

(e) the financial inability of the noncustodial parent to provide adequate food and shelter for the child during periods of parent-time;

(f) the preference of the child if the court determines the child to be of sufficient maturity;

(g) the incarceration of the noncustodial parent in a county jail, secure youth corrections facility, or an adult corrections facility;

(h) shared interests between the child and the noncustodial parent;

(i) the involvement or lack of involvement of the noncustodial parent in the school, community, religious, or other related activities of the child;

(j) the availability of the noncustodial parent to care for the child when the custodial parent is unavailable to do so because of work or other circumstances;

(k) a substantial and chronic pattern of missing, canceling, or denying regularly scheduled parent-time;

(l) the minimal duration of and lack of significant bonding in the parents' relationship prior to the conception of the child;

(m) the parent-time schedule of siblings;

(n) the lack of reasonable alternatives to the needs of a nursing child; and

(o) any other criteria the court determines relevant to the best interests of the child.

(3) The court shall enter the reasons underlying its order for parent-time that:

(a) incorporates a parent-time schedule provided in Section 30-3-35 or 30-3-35.5; or

(b) provides more or less parent-time than a parent-time schedule provided in Section 30-3-35 or 30-3-35.5.

(4) Once the parent-time schedule has been established, the parties may not alter the schedule except by mutual consent of the parties or a court order.

Amended by Chapter 146, 2008 General Session

30-3-35. Minimum schedule for parent-time for children 5 to 18 years of age.

(1) The parent-time schedule in this section applies to children 5 to 18 years of age.

(2) If the parties do not agree to a parent-time schedule, the following schedule shall be considered the minimum parent-time to which the noncustodial parent and the child shall be entitled.

(a) (i) (A) One weekday evening to be specified by the noncustodial parent or

the court, or Wednesday evening if not specified, from 5:30 p.m. until 8:30 p.m.;

(B) at the election of the noncustodial parent, one weekday from the time the child's school is regularly dismissed until 8:30 p.m., unless the court directs the application of Subsection (2)(a)(i); or

(C) at the election of the noncustodial parent, if school is not in session, one weekday from approximately 9 a.m., accommodating the custodial parent's work schedule, until 8:30 p.m. if the noncustodial parent is available to be with the child, unless the court directs the application of Subsection (2)(a)(i)(A) or (2)(a)(i)(B).

(ii) Once the election of the weekday for the weekday evening parent-time is made, it may not be changed except by mutual written agreement or court order.

(b) (i) (A) Alternating weekends beginning on the first weekend after the entry of the decree from 6 p.m. on Friday until 7 p.m. on Sunday continuing each year;

(B) at the election of the noncustodial parent, from the time the child's school is regularly dismissed on Friday until 7 p.m. on Sunday, unless the court directs the application of Subsection (2)(b)(i)(A); or

(C) at the election of the noncustodial parent, if school is not in session, on Friday from approximately 9 a.m., accommodating the custodial parent's work schedule, until 7 p.m. on Sunday, if the noncustodial parent is available to be with the child unless the court directs the application of Subsection (2)(b)(i)(A) or (2)(b)(i)(B).

(ii) A step-parent, grandparent, or other responsible adult designated by the noncustodial parent, may pick up the child if the custodial parent is aware of the identity of the individual, and the parent will be with the child by 7 p.m.

(iii) Elections should be made by the noncustodial parent at the time of entry of the divorce decree or court order, and may be changed by mutual agreement, court order, or by the noncustodial parent in the event of a change in the child's schedule.

(iv) Weekends include any "snow" days, teacher development days, or other days when school is not scheduled and which are contiguous to the weekend period.

(c) Holidays include any "snow" days, teacher development days after the children begin the school year, or other days when school is not scheduled, contiguous to the holiday period, and take precedence over the weekend parent-time. Changes may not be made to the regular rotation of the alternating weekend parent-time schedule; however, birthdays take precedence over holidays and extended parent-time, except Mother's Day and Father's Day; birthdays do not take precedence over uninterrupted parent-time if the parent exercising uninterrupted time takes the child away from that parent's residence for the uninterrupted extended parent-time.

(d) If a holiday falls on a regularly scheduled school day, the noncustodial parent shall be responsible for the child's attendance at school for that school day.

(e) (i) If a holiday falls on a weekend or on a Friday or Monday and the total holiday period extends beyond that time so that the child is free from school and the parent is free from work, the noncustodial parent shall be entitled to this lengthier holiday period.

(ii) (A) At the election of the noncustodial parent, parent-time over a scheduled holiday weekend may begin from the time the child's school is regularly dismissed at the beginning of the holiday weekend until 7 p.m. on the last day of the holiday weekend; or

(B) at the election of the noncustodial parent, if school is not in session,

parent-time over a scheduled holiday weekend may begin at approximately 9 a.m., accommodating the custodial parent's work schedule, the first day of the holiday weekend until 7 p.m. on the last day of the holiday weekend, if the noncustodial parent is available to be with the child unless the court directs the application of Subsection (2)(e)(ii)(A).

(iii) A step-parent, grandparent, or other responsible individual designated by the noncustodial parent, may pick up the child if the custodial parent is aware of the identity of the individual, and the parent will be with the child by 7 p.m.

(iv) Elections should be made by the noncustodial parent at the time of the divorce decree or court order, and may be changed by mutual agreement, court order, or by the noncustodial parent in the event of a change in the child's schedule.

(f) In years ending in an odd number, the noncustodial parent is entitled to the following holidays:

(i) child's birthday on the day before or after the actual birthdate beginning at 3 p.m. until 9 p.m.; at the discretion of the noncustodial parent, he may take other siblings along for the birthday;

(ii) Martin Luther King, Jr. beginning 6 p.m. on Friday until Monday at 7 p.m. unless the holiday extends for a lengthier period of time to which the noncustodial parent is completely entitled;

(iii) spring break beginning at 6 p.m. on the day school lets out for the holiday until 7 p.m. on the Sunday before school resumes;

(iv) July 4 beginning 6 p.m. the day before the holiday until 11 p.m. or no later than 6 p.m. on the day following the holiday, at the option of the parent exercising the holiday;

(v) Labor Day beginning 6 p.m. on Friday until Monday at 7 p.m., unless the holiday extends for a lengthier period of time to which the noncustodial parent is completely entitled;

(vi) the fall school break, if applicable, commonly known as U.E.A. weekend beginning at 6 p.m. on Wednesday until Sunday at 7 p.m. unless the holiday extends for a lengthier period of time to which the noncustodial parent is completely entitled;

(vii) Veteran's Day holiday beginning 6 p.m. the day before the holiday until 7 p.m. on the holiday; and

(viii) the first portion of the Christmas school vacation as defined in Subsection 30-3-32(3)(b) including Christmas Eve and Christmas Day, continuing until 1 p.m. on the day halfway through the holiday period, if there are an odd number of days for the holiday period, or until 7 p.m. if there are an even number of days for the holiday period, so long as the entire holiday period is equally divided.

(g) In years ending in an even number, the noncustodial parent is entitled to the following holidays:

(i) child's birthday on actual birthdate beginning at 3 p.m. until 9 p.m.; at the discretion of the noncustodial parent, he may take other siblings along for the birthday;

(ii) President's Day beginning at 6 p.m. on Friday until 7 p.m. on Monday unless the holiday extends for a lengthier period of time to which the noncustodial parent is completely entitled;

(iii) Memorial Day beginning at 6 p.m. on Friday until Monday at 7 p.m., unless the holiday extends for a lengthier period of time to which the noncustodial parent is

completely entitled;

(iv) July 24 beginning at 6 p.m. on the day before the holiday until 11 p.m. or no later than 6 p.m. on the day following the holiday, at the option of the parent exercising the holiday;

(v) Columbus Day beginning at 6 p.m. the day before the holiday until 7 p.m. on the holiday;

(vi) Halloween on October 31 or the day Halloween is traditionally celebrated in the local community from after school until 9 p.m. if on a school day, or from 4 p.m. until 9 p.m.;

(vii) Thanksgiving holiday beginning Wednesday at 7 p.m. until Sunday at 7 p.m.; and

(viii) the second portion of the Christmas school vacation as defined in Subsection 30-3-32(3)(b), beginning 1 p.m. on the day halfway through the holiday period, if there are an odd number of days for the holiday period, or at 7 p.m. if there are an even number of days for the holiday period, so long as the entire Christmas holiday period is equally divided.

(h) The custodial parent is entitled to the odd year holidays in even years and the even year holidays in odd years.

(i) Father's Day shall be spent with the natural or adoptive father every year beginning at 9 a.m. until 7 p.m. on the holiday.

(j) Mother's Day shall be spent with the natural or adoptive mother every year beginning at 9 a.m. until 7 p.m. on the holiday.

(k) Extended parent-time with the noncustodial parent may be:

(i) up to four consecutive weeks when school is not in session at the option of the noncustodial parent, including weekends normally exercised by the noncustodial parent, but not holidays;

(ii) two weeks shall be uninterrupted time for the noncustodial parent; and

(iii) the remaining two weeks shall be subject to parent-time for the custodial parent for weekday parent-time but not weekends, except for a holiday to be exercised by the other parent.

(l) The custodial parent shall have an identical two-week period of uninterrupted time when school is not in session for purposes of vacation.

(m) Both parents shall provide notification of extended parent-time or vacation weeks with the child at least 30 days prior to the end of the child's school year to the other parent and if notification is not provided timely the complying parent may determine the schedule for extended parent-time for the noncomplying parent.

(n) Telephone contact shall be at reasonable hours and for a reasonable duration.

(o) Virtual parent-time, if the equipment is reasonably available and the parents reside at least 100 miles apart, shall be at reasonable hours and for reasonable duration, provided that if the parties cannot agree on whether the equipment is reasonably available, the court shall decide whether the equipment for virtual parent-time is reasonably available, taking into consideration:

(i) the best interests of the child;

(ii) each parent's ability to handle any additional expenses for virtual parent-time; and

(iii) any other factors the court considers material.

(3) Any elections required to be made in accordance with this section by either parent concerning parent-time shall be made a part of the decree and made a part of the parent-time order.

(4) Notwithstanding Subsection (2)(e)(i), the Halloween holiday may not be extended beyond the hours designated in Subsection (2)(g)(vi).

Amended by Chapter 228, 2010 General Session

30-3-35.5. Minimum schedule for parent-time for children under five years of age.

(1) The parent-time schedule in this section applies to children under five years old.

(2) All holidays in this section refer to the same holidays referenced in Section 30-3-35.

(3) If the parties do not agree to a parent-time schedule, the following schedule shall be considered the minimum parent-time to which the noncustodial parent and the child shall be entitled.

(a) For children under five months of age:

(i) six hours of parent-time per week to be specified by the court or the noncustodial parent preferably:

(A) divided into three parent-time periods; and

(B) in the custodial home, established child care setting, or other environment familiar to the child; and

(ii) two hours on holidays and in the years specified in Subsections 30-3-35(2)(f) through (j) preferably in the custodial home, the established child care setting, or other environment familiar to the child.

(b) For children five months of age or older, but younger than nine months of age:

(i) nine hours of parent-time per week to be specified by the court or the noncustodial parent preferably:

(A) divided into three parent-time periods; and

(B) in the custodial home, established child care setting, or other environment familiar to the child; and

(ii) two hours on the holidays and in the years specified in Subsections 30-3-35(2)(f) through (j) preferably in the custodial home, the established child care setting, or other environment familiar to the child.

(c) For children nine months of age or older, but younger than 12 months of age:

(i) one eight hour visit per week to be specified by the noncustodial parent or court;

(ii) one three hour visit per week to be specified by the noncustodial parent or court;

(iii) eight hours on the holidays and in the years specified in Subsections 30-3-35(2)(f) through (j); and

(iv) brief telephone contact and other virtual parent-time, if the equipment is reasonably available, with the noncustodial parent at least two times per week, provided

that if the parties cannot agree on whether the equipment is reasonably available, the court shall decide whether the equipment for virtual parent-time is reasonably available, taking into consideration:

(A) the best interests of the child;

(B) each parent's ability to handle any additional expenses for virtual parent-time; and

(C) any other factors the court considers material.

(d) For children 12 months of age or older, but younger than 18 months of age:

(i) one eight-hour visit per alternating weekend to be specified by the noncustodial parent or court;

(ii) on opposite weekends from Subsection (3)(d)(i), from 6 p.m. on Friday until noon on Saturday;

(iii) one three-hour visit per week to be specified by the noncustodial parent or court;

(iv) eight hours on the holidays and in the years specified in Subsections 30-3-35(2)(f) through (j); and

(v) brief telephone contact and other virtual parent-time, if the equipment is reasonably available, with the noncustodial parent at least two times per week, provided that if the parties cannot agree on whether the equipment is reasonably available, the court shall decide whether the equipment for virtual parent-time is reasonably available, taking into consideration:

(A) the best interests of the child;

(B) each parent's ability to handle any additional expenses for virtual parent-time; and

(C) any other factors the court considers material.

(e) For children 18 months of age or older, but younger than three years of age:

(i) one weekday evening between 5:30 p.m. and 8:30 p.m. to be specified by the noncustodial parent or court; however, if the child is being cared for during the day outside his regular place of residence, the noncustodial parent may, with advance notice to the custodial parent, pick up the child from the caregiver at an earlier time and return him to the custodial parent by 8:30 p.m.;

(ii) alternative weekends beginning on the first weekend after the entry of the decree from 6 p.m. on Friday until 7 p.m. on Sunday continuing each year;

(iii) parent-time on holidays as specified in Subsections 30-3-35(2)(c) through (j);

(iv) extended parent-time may be:

(A) two one-week periods, separated by at least four weeks, at the option of the noncustodial parent;

(B) one week shall be uninterrupted time for the noncustodial parent;

(C) the remaining week shall be subject to parent-time for the custodial parent consistent with these guidelines; and

(D) the custodial parent shall have an identical one-week period of uninterrupted time for vacation; and

(v) brief telephone contact and virtual parent-time, if the equipment is reasonably available, with the noncustodial parent at least two times per week, provided that if the parties cannot agree on whether the equipment is reasonably available, the court shall decide whether the equipment for virtual parent-time is reasonably available,

taking into consideration:

(A) the best interests of the child;

(B) each parent's ability to handle any additional expenses for virtual parent-time; and

(C) any other factors the court considers material.

(f) For children three years of age or older, but younger than five years of age:

(i) one weekday evening between 5:30 p.m. and 8:30 p.m. to be specified by the noncustodial parent or court; however, if the child is being cared for during the day outside his regular place of residence, the noncustodial parent may, with advance notice to the custodial parent, pick up the child from the caregiver at an earlier time and return him to the custodial parent by 8:30 p.m.;

(ii) alternative weekends beginning on the first weekend after the entry of the decree from 6 p.m. on Friday until 7 p.m. on Sunday continuing each year;

(iii) parent-time on holidays as specified in Subsections 30-3-35(2)(c) through (j);

(iv) extended parent-time with the noncustodial parent may be:

(A) two two-week periods, separated by at least four weeks, at the option of the noncustodial parent;

(B) one two-week period shall be uninterrupted time for the noncustodial parent;

(C) the remaining two-week period shall be subject to parent-time for the custodial parent consistent with these guidelines; and

(D) the custodial parent shall have an identical two-week period of uninterrupted time for vacation; and

(v) brief telephone contact and virtual parent-time, if the equipment is reasonably available, with the noncustodial parent at least two times per week, provided that if the parties cannot agree on whether the equipment is reasonably available, the court shall decide whether the equipment for virtual parent-time is reasonably available, taking into consideration:

(A) the best interests of the child;

(B) each parent's ability to handle any additional expenses for virtual parent-time; and

(C) any other factors the court considers material.

(4) A parent shall notify the other parent at least 30 days in advance of extended parent-time or vacation weeks.

(5) Virtual parent-time shall be at reasonable hours and for reasonable duration.

Amended by Chapter 228, 2010 General Session

30-3-36. Special circumstances.

(1) When parent-time has not taken place for an extended period of time and the child lacks an appropriate bond with the noncustodial parent, both parents shall consider the possible adverse effects upon the child and gradually reintroduce an appropriate parent-time plan for the noncustodial parent.

(2) For emergency purposes, whenever the child travels with either parent, all of the following will be provided to the other parent:

(a) an itinerary of travel dates;

(b) destinations;

(c) places where the child or traveling parent can be reached; and

(d) the name and telephone number of an available third person who would be knowledgeable of the child's location.

(3) Unchaperoned travel of a child under the age of five years is not recommended.

Amended by Chapter 255, 2001 General Session

30-3-37. Relocation.

(1) For purposes of this section, "relocation" means moving 150 miles or more from the residence of the other parent.

(2) The relocating parent shall provide 60 days advance written notice of the intended relocation to the other parent. The written notice of relocation shall contain statements affirming the following:

(a) the parent-time provisions in Subsection (5) or a schedule approved by both parties will be followed; and

(b) neither parent will interfere with the other's parental rights pursuant to court ordered parent-time arrangements, or the schedule approved by both parties.

(3) The court shall, upon motion of any party or upon the court's own motion, schedule a hearing with notice to review the notice of relocation and parent-time schedule as provided in Section 30-3-35 and make appropriate orders regarding the parent-time and costs for parent-time transportation.

(4) In a hearing to review the notice of relocation, the court shall, in determining if the relocation of a custodial parent is in the best interest of the child, consider any other factors that the court considers relevant to the determination. If the court determines that relocation is not in the best interest of the child, and the custodial parent relocates, the court may order a change of custody.

(5) If the court finds that the relocation is in the best interest of the child, the court shall determine the parent-time schedule and allocate the transportation costs that will be incurred for the child to visit the noncustodial parent. In making its determination, court shall consider:

(a) the reason for the parent's relocation;

(b) the additional costs or difficulty to both parents in exercising parent-time;

(c) the economic resources of both parents; and

(d) other factors the court considers necessary and relevant.

(6) Unless otherwise ordered by the court, upon the relocation, as defined in Subsection (1), of one of the parties the following schedule shall be the minimum requirements for parent-time with a school-age child:

(a) in years ending in an odd number, the child shall spend the following holidays with the noncustodial parent:

(i) Thanksgiving holiday beginning Wednesday until Sunday; and

(ii) Spring break, if applicable, beginning the last day of school before the holiday until the day before school resumes;

(b) in years ending in an even number, the child shall spend the following holidays with the noncustodial parent:

(i) the entire winter school break period; and

(ii) the Fall school break beginning the last day of school before the holiday until the day before school resumes;

(c) extended parent-time equal to 1/2 of the summer or off-track time for consecutive weeks. The children should be returned to the custodial home no later than seven days before school begins; however, this week shall be counted when determining the amount of parent-time to be divided between the parents for the summer or off-track period; and

(d) one weekend per month, at the option and expense of the noncustodial parent.

(7) The noncustodial parent's monthly weekend entitlement is subject to the following restrictions.

(a) If the noncustodial parent has not designated a specific weekend for parent-time, the noncustodial parent shall receive the last weekend of each month unless a holiday assigned to the custodial parent falls on that particular weekend. If a holiday assigned to the custodial parent falls on the last weekend of the month, the noncustodial parent shall be entitled to the next to the last weekend of the month.

(b) If a noncustodial parent's extended parent-time or parent-time over a holiday extends into or through the first weekend of the next month, that weekend shall be considered the noncustodial parent's monthly weekend entitlement for that month.

(c) If a child is out of school for teacher development days or snow days after the children begin the school year, or other days not included in the list of holidays in Subsection (6) and those days are contiguous with the noncustodial parent's monthly weekend parent-time, those days shall be included in the weekend parent-time.

(8) The custodial parent is entitled to all parent-time not specifically allocated to the noncustodial parent.

(9) In the event finances and distance preclude the exercise of minimum parent-time for the noncustodial parent during the school year, the court should consider awarding more time for the noncustodial parent during the summer time if it is in the best interests of the children.

(10) Upon the motion of any party, the court may order uninterrupted parent-time with the noncustodial parent for a minimum of 30 days during extended parent-time, unless the court finds it is not in the best interests of the child. If the court orders uninterrupted parent-time during a period not covered by this section, it shall specify in its order which parent is responsible for the child's travel expenses.

(11) Unless otherwise ordered by the court the relocating party shall be responsible for all the child's travel expenses relating to Subsections (6)(a) and (b) and 1/2 of the child's travel expenses relating to Subsection (6)(c), provided the noncustodial parent is current on all support obligations. If the noncustodial parent has been found in contempt for not being current on all support obligations, the noncustodial parent shall be responsible for all of the child's travel expenses under Subsection (6), unless the court rules otherwise. Reimbursement by either responsible party to the other for the child's travel expenses shall be made within 30 days of receipt of documents detailing those expenses.

(12) The court may apply this provision to any preexisting decree of divorce.

(13) Any action under this section may be set for an expedited hearing.

(14) A parent who fails to comply with the notice of relocation in Subsection (2)

shall be in contempt of the court's order.

Amended by Chapter 227, 2012 General Session

30-3-38. Expedited Parent-time Enforcement Program.

(1) There is established an Expedited Parent-time Enforcement Program in the third judicial district to be administered by the Administrative Office of the Courts.

(2) As used in this section:

(a) "Mediator" means a person who:

(i) is qualified to mediate parent-time disputes under criteria established by the Administrative Office of the Courts; and

(ii) agrees to follow billing guidelines established by the Administrative Office of the Courts and this section.

(b) "Services to facilitate parent-time" or "services" means services designed to assist families in resolving parent-time problems through:

(i) counseling;

(ii) supervised parent-time;

(iii) neutral drop-off and pick-up;

(iv) educational classes; and

(v) other related activities.

(3) (a) If a parent files a motion in the third district court alleging that court-ordered parent-time rights are being violated, the clerk of the court, after assigning the case to a judge, shall refer the case to the administrator of this program for assignment to a mediator, unless a parent is incarcerated or otherwise unavailable. Unless the court rules otherwise, a parent residing outside of the state is not unavailable. The director of the program for the courts, the court, or the mediator may excuse either party from the requirement to mediate for good cause.

(b) Upon receipt of a case, the mediator shall:

(i) meet with the parents to address parent-time issues within 15 days of the motion being filed;

(ii) assess the situation;

(iii) facilitate an agreement on parent-time between the parents; and

(iv) determine whether a referral to a service provider under Subsection (3)(c) is warranted.

(c) While a case is in mediation, a mediator may refer the parents to a service provider designated by the Department of Human Services for services to facilitate parent-time if:

(i) the services may be of significant benefit to the parents; or

(ii) (A) a mediated agreement between the parents is unlikely; and

(B) the services may facilitate an agreement.

(d) At any time during mediation, a mediator shall terminate mediation and transfer the case to the administrator of the program for referral to the judge or court commissioner to whom the case was assigned under Subsection (3)(a) if:

(i) a written agreement between the parents is reached; or

(ii) the parents are unable to reach an agreement through mediation and:

(A) the parents have received services to facilitate parent-time;

(B) both parents object to receiving services to facilitate parent-time; or

(C) the parents are unlikely to benefit from receiving services to facilitate parent-time.

(e) Upon receiving a case from the administrator of the program, a judge or court commissioner may:

(i) review the agreement of the parents and, if acceptable, sign it as an order;

(ii) order the parents to receive services to facilitate parent-time;

(iii) proceed with the case; or

(iv) take other appropriate action.

(4) (a) If a parent makes a particularized allegation of physical or sexual abuse of a child who is the subject of a parent-time order against the other parent or a member of the other parent's household to a mediator or service provider, the mediator or service provider shall immediately report that information to:

(i) the judge assigned to the case who may immediately issue orders and take other appropriate action to resolve the allegation and protect the child; and

(ii) the Division of Child and Family Services within the Department of Human Services in the manner required by Title 62A, Chapter 4a, Part 4, Child Abuse or Neglect Reporting Requirements.

(b) If an allegation under Subsection (4)(a) is made against a parent with parent-time rights or a member of that parent's household, parent-time by that parent shall, pursuant to an order of the court, be supervised until:

(i) the allegation has been resolved; or

(ii) a court orders otherwise.

(c) Notwithstanding an allegation under Subsection (4)(a), a mediator may continue to mediate parent-time problems and a service provider may continue to provide services to facilitate parent-time unless otherwise ordered by a court.

(5) (a) The Department of Human Services may contract with one or more entities in accordance with Title 63G, Chapter 6a, Utah Procurement Code, to provide:

(i) services to facilitate parent-time;

(ii) case management services; and

(iii) administrative services.

(b) An entity who contracts with the Department of Human Services under Subsection (5)(a) shall:

(i) be qualified to provide one or more of the services listed in Subsection (5)(a); and

(ii) agree to follow billing guidelines established by the Department of Human Services and this section.

(6) (a) Except as provided in Subsection (6)(b), the cost of mediation shall be:

(i) reduced to a sum certain;

(ii) divided equally between the parents; and

(iii) charged against each parent taking into account the ability of that parent to pay under billing guidelines adopted in accordance with this section.

(b) A judge may order a parent to pay an amount in excess of that provided for in Subsection (6)(a) if the parent:

(i) failed to participate in good faith in mediation or services to facilitate parent-time; or

(ii) made an unfounded assertion or claim of physical or sexual abuse of a child.

(c) (i) The cost of mediation and services to facilitate parent-time may be charged to parents at periodic intervals.

(ii) Mediation and services to facilitate parent-time may only be terminated on the ground of nonpayment if both parents are delinquent.

(7) (a) The Judicial Council may make rules to implement and administer the provisions of this program related to mediation.

(b) The Department of Human Services may make rules to implement and administer the provisions of this program related to services to facilitate parent-time.

(8) (a) The Administrative Office of the Courts shall adopt outcome measures to evaluate the effectiveness of the mediation component of this program. Progress reports shall be provided to the Judiciary Interim Committee as requested by the committee.

(b) The Department of Human Services shall adopt outcome measures to evaluate the effectiveness of the services component of this program. Progress reports shall be provided to the Judiciary Interim Committee as requested by the committee.

(c) The Administrative Office of the Courts and the Department of Human Services may adopt joint outcome measures and file joint reports to satisfy the requirements of Subsections (7)(a) and (b).

(9) The Department of Human Services shall, by following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures, apply for federal funds as available.

Amended by Chapter 347, 2012 General Session

30-3-39. Mediation program.

(1) There is established a mandatory domestic mediation program to help reduce the time and tensions associated with obtaining a divorce.

(2) If, after the filing of an answer to a complaint of divorce, there are any remaining contested issues, the parties shall participate in good faith in at least one session of mediation. This requirement does not preclude the entry of pretrial orders before mediation takes place.

(3) The parties shall use a mediator qualified to mediate domestic disputes under criteria established by the Judicial Council in accordance with Section 78B-6-205.

(4) Unless otherwise ordered by the court or the parties agree upon a different payment arrangement, the cost of mediation shall be divided equally between the parties.

(5) The director of dispute resolution programs for the courts, the court, or the mediator may excuse either party from the requirement to mediate for good cause.

(6) Mediation shall be conducted in accordance with the Utah Rules of Court-Annexed Alternative Dispute Resolution.

Amended by Chapter 3, 2008 General Session

30-3-40. Custody and parent-time when one parent is a service member.

(1) As used in this section:

(a) "Deployment" means the temporary transfer of a service member serving in an active duty status to another location in support of combat or some other military operation.

(b) "Mobilization" means the call up of a National Guard or Reserve service member to extended active duty status, but does not include National Guard or Reserve annual training.

(c) "Service member" means a person who is:

(i) a member of the Utah National Guard;

(ii) a member of a Reserve component based in the state; or

(iii) a member of the Armed Forces of the United States on active duty and stationed in this state.

(d) "Temporary duty" means the transfer of a service member from a military base to a different location, often another base, for a set period of time to accomplish training or to assist in the performance of a noncombat mission.

(2) In the absence of a parenting plan or other agreement between the parties covering such situations:

(a) A service member who is a custodial parent of minor children in this state, and who is deployed, mobilized, or ordered to temporary duty at another location shall, if possible, contact the noncustodial parent as soon as practicable after receiving orders. The service member shall inform the noncustodial parent of the approximate dates the service member will be away, if known.

(i) Unless the noncustodial parent has supervised or limited parent-time, if willing and able, the noncustodial parent may provide care for any minor children during the time the service member is away. The noncustodial parent shall notify the custodial parent of the noncustodial parent's willingness to provide care as soon as practicable, but not less than five days before the service member is required to leave. If the noncustodial parent will provide care while the service member is away, the parents shall arrange a time and place for the delivery of the children to the noncustodial parent.

(ii) If the noncustodial parent is unwilling or unable to provide care for any minor children during the time the service member is away, the service member may make specific arrangements for the housing and care of the minor children during the time the service member will be away. Notice of arrangements made by the service member shall be provided to the noncustodial parent and may not deprive the noncustodial parent of parent-time during the same time period.

(b) If a service member who is a noncustodial parent is deployed, mobilized, or ordered to temporary duty at another location, his or her parent-time rights may be exercised by a family member with a close and substantial relationship to the minor child for the duration of the service member's absence. The service member shall provide the custodial parent with written notice of arrangements made regarding the exercise of parent-time in the service member's absence.

(3) A temporary exchange of physical custody under this section may not alter the original custody order of the court.

(4) In addition to the arrangements made for the care of minor children under this section, both parents shall comply with the provisions of Section 78B-12-108.

(5) A service member who is deployed, mobilized, or ordered to temporary duty

may not be deprived of custodial or parent-time rights while unavailable pursuant to military orders. Any petition, motion, or action brought by a parent or guardian before a court attempting to deprive or alter custody or parent-time rights shall be stayed in accordance with Section 39-7-105 and the Federal Servicemembers Civil Relief Act, 50 U.S.C. Appx. 521.

Amended by Chapter 218, 2010 General Session

30-4-1. Action by spouse -- Grounds.

Whenever a resident of this state:

(1) deserts a spouse without good and sufficient cause;

(2) being of sufficient ability to provide support, neglects or refuses to properly provide for and suitably maintain that spouse;

(3) having property within this state and the spouse being a resident of this state, so deserts or neglects or refuses to provide such support; or

(4) where a married person without that person's fault lives separate and apart from that spouse, the district court shall, on the filing of a complaint, allot, assign, set apart and decree as alimony the use of the real and personal estate or earnings of the deserting spouse as the court may determine appropriate. During the pendency of the action, the court may require the deserting spouse to pay a sum as provided in Section 30-3-3.

Amended by Chapter 137, 1993 General Session

30-4-2. Procedure -- Venue.

In all actions brought hereunder the proceedings and practice shall be the same as near as may be as in actions for divorce; but the action may be brought in any county where the wife or the husband may be found.

Amended by Chapter 122, 1977 General Session

30-4-3. Custody and maintenance of children -- Property and debt division -- Support payments.

(1) In all actions brought under this chapter the court may by order or decree:

(a) provide for the care, custody, and maintenance of the minor children of the parties and may determine with which of the parties the children or any of them shall remain;

(b) (i) provide for support of either spouse and the support of the minor children remaining with that spouse;

(ii) provide how and when support payments shall be made; and

(iii) provide that either spouse have a lien upon the property of the other to secure payment of the support or maintenance obligation;

(c) award to either spouse the possession of any real or personal property of the other spouse or acquired by the spouses during the marriage; or

(d) pursuant to Section 15-4-6.5:

(i) specify which party is responsible for the payment of joint debts, obligations,

or liabilities contracted or incurred by the parties during the marriage;

(ii) require the parties to notify respective creditors or obligees regarding the court's division of debts, obligations, and liabilities and regarding the parties' separate, current addresses; and

(iii) provide for the enforcement of these orders.

(2) The orders and decrees under this section may be enforced by sale of any property of the spouse or by contempt proceedings or otherwise as may be necessary.

(3) The court may change the support or maintenance of a party from time to time according to circumstances, and may terminate altogether any obligation upon satisfactory proof of voluntary and permanent reconciliation. An order or decree of support or maintenance shall in every case be valid only during the joint lives of the husband and wife.

Amended by Chapter 257, 1991 General Session

30-4-4. Restraining disposal of property.

At the time of filing the complaint mentioned in Section 30-4-1, or at any time subsequent thereto, the plaintiff may procure from the court, and file with the county recorder of any county in the state in which the defendant may own real estate, an order enjoining and restraining the defendant from disposing of or encumbering the same or any portion thereof, describing such real estate with reasonable certainty, and from the time of filing such order the property described therein shall be charged with a lien in favor of the plaintiff to the extent of any judgment which may be rendered in the action.

No Change Since 1953

30-4-5. Rights and remedies -- Imprisonment of husband or wife.

Like rights and remedies shall be extended to either husband or wife on the imprisonment of the other in the state prison under a sentence of one year or more when suitable provision has not been made for the support of the one not so imprisoned.

Amended by Chapter 122, 1977 General Session

30-4a-1. Authority of court.

A court having jurisdiction may, upon its finding of good cause and giving of such notice as may be ordered, enter an order nunc pro tunc in a matter relating to marriage, divorce, legal separation or annulment of marriage.

Enacted by Chapter 118, 1983 General Session

30-5-1. Definitions.

As used in this act:

(1) "District court" means the district court with proper jurisdiction over the grandchild.

(2) "Grandchild" means the child with respect to whom a grandparent is seeking visitation rights under this chapter.

(3) "Grandparent" means a person whose child, either by blood, marriage, or adoption, is the parent of the grandchild.

Amended by Chapter 85, 2002 General Session

30-5-2. Visitation rights of grandparents.

(1) Grandparents have standing to bring an action in district court by petition, requesting visitation in accordance with the provisions and requirements of this section. Grandparents may also file a petition for visitation rights in a pending divorce proceeding or other proceeding involving custody and visitation issues.

(2) There is a rebuttable presumption that a parent's decision with regard to grandparent visitation is in the grandchild's best interests. However, the court may override the parent's decision and grant the petitioner reasonable rights of visitation if the court finds that the petitioner has rebutted the presumption based upon factors which the court considers to be relevant, such as whether:

(a) the petitioner is a fit and proper person to have visitation with the grandchild;

(b) visitation with the grandchild has been denied or unreasonably limited;

(c) the parent is unfit or incompetent;

(d) the petitioner has acted as the grandchild's custodian or caregiver, or otherwise has had a substantial relationship with the grandchild, and the loss or cessation of that relationship is likely to cause harm to the grandchild;

(e) the petitioner's child, who is a parent of the grandchild, has died, or has become a noncustodial parent through divorce or legal separation;

(f) the petitioner's child, who is a parent of the grandchild, has been missing for an extended period of time; or

(g) visitation is in the best interest of the grandchild.

(3) The adoption of a grandchild by the grandchild's stepparent does not diminish or alter visitation rights previously ordered under this section.

(4) Subject to the provisions of Subsections (2) and (3), the court may inquire of the grandchild and take into account the grandchild's desires regarding visitation.

(5) On the petition of a grandparent or the legal custodian of a grandchild the court may, after a hearing, modify an order regarding grandparent visitation if:

(a) the circumstances of the grandchild, the grandparent, or the custodian have materially and substantially changed since the entry of the order to be modified, or the order has become unworkable or inappropriate under existing circumstances; and

(b) the court determines that a modification is appropriate based upon the factors set forth in Subsection (2).

(6) Grandparents may petition the court to remedy a parent's wrongful noncompliance with a visitation order.

Amended by Chapter 129, 2005 General Session

30-5a-101. Title.

This chapter is known as the "Custody and Visitation for Persons Other than

Parents Act."

Enacted by Chapter 272, 2008 General Session

30-5a-102. Definitions.

As used in this chapter:

(1) "Parent" means a biological or adoptive parent.

(2) "Person other than a parent" means a person related to the child by marriage or blood, including:

(a) siblings;

(b) aunts;

(c) uncles;

(d) grandparents; or

(e) current or former step-parents, or any of the persons in Subsections (2)(a) through (d) in a step relationship to the child.

Enacted by Chapter 272, 2008 General Session

30-5a-103. Custody and visitation for persons other than a parent.

(1) In accordance with Section 62A-4a-201, it is the public policy of this state that parents retain the fundamental right and duty to exercise primary control over the care, supervision, upbringing, and education of their children. There is a rebuttable presumption that a parent's decisions are in the child's best interests.

(2) A court may find the presumption in Subsection (1) rebutted and grant custodial or visitation rights to a person other than a parent who, by clear and convincing evidence, has established all of the following:

(a) the person has intentionally assumed the role and obligations of a parent;

(b) the person and the child have formed an emotional bond and created a parent-child type relationship;

(c) the person contributed emotionally or financially to the child's well being;

(d) assumption of the parental role is not the result of a financially compensated surrogate care arrangement;

(e) continuation of the relationship between the person and the child would be in the child's best interests;

(f) loss or cessation of the relationship between the person and the child would be detrimental to the child; and

(g) the parent:

(i) is absent; or

(ii) is found by a court to have abused or neglected the child.

(3) A proceeding under this chapter may be commenced by filing a verified petition, or petition supported by an affidavit, in the juvenile court if a matter is pending, or in the district court in the county in which the child:

(a) currently resides; or

(b) lived with a parent or a person other than a parent who acted as a parent within six months before the commencement of the action.

(4) A proceeding under this chapter may be filed in a pending divorce,

parentage action, or other proceeding, including a proceeding in the juvenile court, involving custody of or visitation with a child.

(5) The petition shall include detailed facts supporting the petitioner's right to file the petition including the criteria set forth in Subsection (2) and residency information as set forth in Section 78B-13-209.

(6) A proceeding under this chapter may not be filed against a parent who is actively serving outside the state in any branch of the military.

(7) Notice of a petition filed pursuant to this chapter shall be served in accordance with the rules of civil procedure on all of the following:

(a) the child's biological, adopted, presumed, declarant, and adjudicated parents;

(b) any person who has court-ordered custody or visitation rights;

(c) the child's guardian;

(d) the guardian ad litem, if one has been appointed;

(e) a person or agency that has physical custody of the child or that claims to have custody or visitation rights; and

(f) any other person or agency that has previously appeared in any action regarding custody of or visitation with the child.

(8) The court may order a custody evaluation to be conducted in any action brought under this chapter.

(9) The court may enter temporary orders in an action brought under this chapter pending the entry of final orders.

Enacted by Chapter 272, 2008 General Session

30-5a-104. Exceptions.

This chapter may not be used to seek, obtain, maintain or continue custody of, or visitation with, a child who has been relinquished for adoption, or adopted pursuant to an order of a court of competent jurisdiction.

Enacted by Chapter 108, 2009 General Session

30-8-1. Title.

This act shall be known as the "Uniform Premarital Agreement Act."

Enacted by Chapter 105, 1994 General Session

30-8-2. Definitions.

As used in this chapter:

(1) "Premarital agreement" means an agreement between prospective spouses made in contemplation of marriage and to be effective upon marriage.

(2) "Property" means an interest, present or future, legal or equitable, vested or contingent, in real or personal property, including income and earnings.

Enacted by Chapter 105, 1994 General Session

30-8-3. Writing -- Signature required.

A premarital agreement shall be in writing and signed by both parties. It is enforceable without consideration.

Amended by Chapter 297, 2011 General Session

30-8-4. Content.

(1) Parties to a premarital agreement may contract with respect to:

(a) the rights and obligations of each of the parties in any of the property of either or both of them whenever and wherever acquired or located;

(b) the right to buy, sell, use, transfer, exchange, abandon, lease, consume, expend, assign, create a security interest in, mortgage, encumber, dispose of, or otherwise manage and control property;

(c) the disposition of property upon separation, marital dissolution, death, or the occurrence or nonoccurrence of any other event;

(d) the modification or elimination of spousal support;

(e) the ownership rights in and disposition of the death benefit from a life insurance policy;

(f) the choice of law governing the construction of the agreement, except that a court of competent jurisdiction may apply the law of the legal domicile of either party, if it is fair and equitable; and

(g) any other matter, including their personal rights and obligations, not in violation of public policy or a statute imposing a criminal penalty.

(2) The right of a child to support, health and medical provider expenses, medical insurance, and child care coverage may not be affected by a premarital agreement.

Enacted by Chapter 105, 1994 General Session

30-8-5. Effect of marriage -- Amendment -- Revocation.

(1) A premarital agreement becomes effective upon marriage.

(2) After marriage, a premarital agreement may be amended or revoked only by a written agreement signed by the parties. The amended agreement or the revocation is enforceable without consideration.

Enacted by Chapter 105, 1994 General Session

30-8-6. Enforcement.

(1) A premarital agreement is not enforceable if the party against whom enforcement is sought proves that:

(a) that party did not execute the agreement voluntarily; or

(b) the agreement was fraudulent when it was executed and, before execution of the agreement, that party:

(i) was not provided a reasonable disclosure of the property or financial obligations of the other party insofar as was possible;

(ii) did not voluntarily and expressly waive, in writing, any right to disclosure of

the property or financial obligations of the other party beyond the disclosure provided; and

(iii) did not have, or reasonably could not have had, an adequate knowledge of the property or financial obligations of the other party.

(2) If a provision of a premarital agreement modifies or eliminates spousal support and that modification or elimination causes one party to the agreement to be eligible for support under a program of public assistance at the time of separation or marital dissolution, a court, notwithstanding the terms of the agreement, may require the other party to provide support to the extent necessary to avoid that eligibility.

(3) An issue of fraud of a premarital agreement shall be decided by the court as a matter of law.

Enacted by Chapter 105, 1994 General Session

30-8-7. Enforcement -- Void marriage.

If a marriage is determined to be void, an agreement that would otherwise have been a premarital agreement is enforceable only to the extent necessary to avoid an inequitable result.

Enacted by Chapter 105, 1994 General Session

30-8-8. Limitations of actions.

Any statute of limitations applicable to an action asserting a claim for relief under a premarital agreement is tolled during the marriage of the parties to the agreement.

Enacted by Chapter 105, 1994 General Session

30-8-9. Application and construction.

This act shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this act among states enacting it.

Enacted by Chapter 105, 1994 General Session